S. HRG. 99-152

AMTRAK REAUTHORIZATION

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

REAUTHORIZATION OF FUNDS FOR AMTRAK

APRIL 29, 1985

Printed for the use of the
Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

50-659 O WASHINGTON : 1985

S261-44

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REAUTHORIZATION OF FUNDS FOR AMTRAK

MONDAY, APRIL 29, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 253, Russell Senate Office Building, Hon. Bob Packwood (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Pamela Garvie, Steve Johnson, staff counsels; and Linda Morgan, minority staff counsel.

OPENING STATEMENT BY SENATOR PACKWOOD

Senator PACKWOOD. The hearing will come to order, please.

This hearing on the subject of Amtrak, and the proper authorization level for it, is, I know, a subject with which many of you in the room are already familiar, and it is a subject of clear controversy and interest to the Nation.

I would like to start this morning with Congressman James Florio from New Jersey, who has a long history of involvement with both Amtrak and Conrail and is one of the people in Congress who I would regard as an expert on this subject.

Congressman, it is good to have you with us.

Senator Rockefeller, do you have a statement?

OPENING STATEMENT BY SENATOR ROCKEFELLER

Senator ROCKEFELLER. Mr. Chairman, I fully support the continuation of Federal funding for Amtrak because I think this country needs passenger rail service. Without roughly the current level of Government support, Amtrak will have to shut down. Once subsidy levels are slashed to the point that Amtrak starts reducing routes, the system will fall apart. We would be the only industrialized country in the world without this form of transportation.

I am not impressed by arguments that Amtrak's 20 million passengers could easily or conveniently switch to other means of transportation. Of the 500 communities around the country reached by Amtrak, 132 lack air service, 52 lack bus service, and 29 lack either. In fact, as the competition between buses and the airlines intensifies, with wider availability of discount air fares, there's good reason to fear that bus service in many parts of the country will decline. Losing Amtrak would make this situation worse.

Expecting the States of the private sector to take over Amtrak—or parts of it—is equally unrealistic. As a Governor, I know there's no way the States could readily provide the resources or operate the rail system any more efficiently than Amtrak. And, frankly, it's not reasonable to expect passenger rail sustems to run a profit: Every other country with passenger rail service provides some level of Government support.

Amtrak has been improving in recent years and the subsidies required from the Government have significantly declined. All in all, the Federal subsidy per passenger is roughly the same for Amtrak as for the major airlines.

Good transportation systems—highways, air service, subways and bus service, shipping, freight, and passenger rail service—are vital to the country's economic growth and well-being. It is a false economy to try to save money on Amtrak and destroy a valuable service.

Senator Hollings has asked that his opening statement be included in the record.

[The statement follows:]

OPENING STATEMENT BY SENATOR HOLLINGS

Today the Committee is holding a hearing on an issue of importance to our national transportation system—the future of rail passenger service in this country. While I remain committed to reducing the Federal deficit, I also am committed to maintaining meritorious Federal programs in a cost-efficient way. I consider Amtrak to be such a program and thus have indicated my support for continued funding of Amtrak at a level sufficient to maintain a national system.

The Administration has proposed the elimination of Federal funding for Amtrak, which would ensure the dismantling of the Nation's rail passenger network as we know it. Those in support of this proposal argue that Amtrak serves no useful transportation or other social purpose. I find it hard to believe that a system that carries 20 million passengers a year, serves 500 communities, and employs 25,000 workers can be called useless. One need only look further at the 17,500 passengers which Amtrak carries annually in the Northeast Corridor to be convinced that Amtrak is an integral part of our national transportation network.

Those in favor of dismantling Amtrak also argue that Amtrak is a failed Federal experiment, which will continue to be a drain on the Federal Treasury. Amtrak's need for Federal funds is not a new discovery—Congress several years ago determined that Amtrak could not be a for-profit corporation and thus has focused on ensuring a sounder investment of the Federal dollar in Amtrak. As recently as 1981, Congress reaffirmed the need to fund a national rail passenger system and mandated certain financial and service goals to ensure improved efficiency.

With these goals in mind, it is hard to conclude that Amtrak is a failed experiment. Since 1978 Amtrak's revenue-to-cost ratio has improved from 48 percent to 56 percent, well exceeding the 50 percent goal mandated in the 1981 Amtrak legislation. It has increased its revenues while reducing its costs. Its current Federal subsidy is the lowest it has been since 1977. Furthermore, per route mile, it carries 833 passengers, more than any other mode. Amtrak has progressed to a system that provides more and better service at a lower cost—hardly a failed experiment, and in fact an example for other programs to follow.

I am concerned that those who favor Amtrak's elimination have only looked at the Federal dollars that would be saved by not providing the funds necessary to operate the system. There are other costs associated with the elimination of Amtrak that must not be overlooked. What about the $9 to $11 billion already invested in the system, on which clearly we are seeing a return—are we to accept that such an investment must now be lost? Are we assured that the liquidation of Amtrak's $3 billion in assets will result in recovery of full value? It seems fiscally irresponsible for us to take an action which would result in the scrapping of such a substantial investment.

And there are other costs, not all of which are monetary in nature. The elimination of Amtrak would cause the lay-off of 25,000 employees and could result in labor protection costs of up to $2.1 billion. It is by no means clear that this amount would be covered by a liquidation of Amtrak assets. In that event, it is also not clear

whether the Federal Government would be legally obligated to pay any of this amount—a question which could end up in protracted litigation and ultimately fall on the Government. Given the uncertainty of these important issues, Amtrak's elimination could create additional costs to the Federal Government and certainly put in jeopardy the livelihood of those very people who have contributed to a much improved Amtrak system.

Finally, I am concerned that the impact of Amtrak's elimination on the Nation's transportation needs has not been fully analyzed. Take the Northeast Corridor as an example—how will the 17,500 now using Amtrak service in that area be accommodated? Is National Airport equipped to increase its capacity by 38 trips daily? How will the commuter traffic that now uses the Corridor be accommodated, given that Amtrak now owns and operates the Corridor? The Administration has indicated that the states and localities and the private sector could assume operation of the important segments of the Amtrak system—has such a plan been developed?

Congress would be acting irresponsibly if it discontinued Amtrak funding without the answers to these important questions, particularly given the impressive return which the Federal Government is seeing on its investment, and the fact that a decision to eliminate Amtrak is irreversible. I applaud the efforts of both management and labor toward making Amtrak more efficient, and I am hopeful that the national rail passenger system can be retained to ensure that these improvements can be continued.

Senator PACKWOOD. Thank you, Senator.

Congressman Florio.

STATEMENT OF HON. JAMES J. FLORIO, U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. FLORIO. Thank you very much, Senator. I am very pleased to be here to share some thoughts with you about the proposal in the administration's budget to effectively kill Amtrak.

I would like to put my statement in the record and I will try to summarize in the interest of time.

Senator PACKWOOD. Your statement will be in the record in full.

Mr. FLORIO. Thank you.

I think the key point, Senator and members of the committee, is that the proposal to effectively zero out the appropriation for Amtrak will do away with the system on the first of October. We should have no doubt about the fact that that is the impact of it.

The administration has proposed to eliminate all funding, ostensibly in the name of reducing the deficit. There are serious questions that can be raised and that should be addressed by all of us as to whether that will be the effect. An argument can be raised, which is much more persuasive, I think, when one understands the facts that we will be effectively increasing the deficit in many respects by eliminating Amtrak.

The $684 million that some of us are advocating as the amount to be authorized and appropriated for Amtrak constitutes a freeze of this year's amount.

I think we have to challenge the arithmetic of those who say that eliminating that subsidy will decrease the deficit.

For example, Amtrak has invested some $3 billion in its rolling stock. Best estimates that we can obtain are the scrap value—and that's all it will be—the scrap value for that $3 billion investment is $350 million. In the same vein, the Federal Government has invested over $2.5 billion for the Northeast corridor over the last number of years. Again, if the system is not there, the value of that Federal investment is diminished rather substantially.

There is a $2.1 billion allocation that will be required for labor termination payments when the system terminates, and 25,000 workers lose their jobs.

The administration claims that the Federal Government is not responsible for these benefits. Obviously, the labor unions disagree. The courts will ultimately make the final decision as to who is responsible for these statutorily and contractually imposed obligations that the labor people will be entitled to.

In any event, whether it be the Federal Government directly or whether it be Amtrak making these payments, from the salvage value of its resources, it is clear that the Federal Government, would either pay it directly, or the Federal Government which has paid for Amtrak, will indirectly pay for the labor protection benefits.

So, as one can see, just a superficial recitation of the loss to the Federal Government, of the $3 billion for rolling stock, the $2.5 billion for the Northeast corridor, the $2.1 billion for labor protection—it is a very difficult matter of mathematics to say that cutting $684 million out of the budget is going to somehow save us substantial amounts of money.

The elimination of Amtrak also has other ramifications that we are just starting to find out about through the course of these hearings and through the hearings that we conducted on the other side.

As an example, the elimination of Amtrak means that Conrail will be required to pay some $114 million annually to operate its trains over the Northest corridor.

Secretary Dole recommended last week before my committee that the Norfolk Southern be required to pay this amount if it takes over Conrail; that is to say that currently the Northeast corridor maintenance costs, dispatching costs, signaling costs, are divided among all of the users, the paramount user being Amtrak.

If Amtrak goes, all of the other users are going to have to pick up a proportional share. And $114 million is the annual assignment that Conrail would have to pick up.

I think it is clear that Norfolk Southern probably did not have this allocation in mind when it made its bid.

The suggestion by Mrs. Dole that Norfolk Southern will have no difficulty in absorbing this amount is still open to question, I suspect.

The Government literally will be throwing away billions of dollars if Amtrak is eliminated. Fortunately enough, not all of the members of the administration support Mr. Stockman's claims that Amtrak is, on its face, wasteful. As a matter of fact, in testimony before my committee last week, Mrs. Dole herself said that Amtrak was performing superbly and that she would "do everything in her power to help Amtrak service continue," although she did not advocate the continuation of the subsidy.

Mrs. Dole spoke of involving the private sector, commuter authorities and the States in saving Amtrak's lines. I have spent a lot of time and have found no one who is willing to come forward to accept Amtrak. The Association of American Railroads has informed me and other members in writing that there was no interest expressed by any freight railroad. They would regard it as

highly improbable that any freight railroad would be interested in getting back into that service.

Likewise, the commuter agencies, operating particularly in the Northeast Corridor, have indicated that they have neither the physical assets nor the financial resources to pick up the service.

You are going to hear from Governor Orr today who will convey to you his views as to whether the States could subsidize Amtrak. I think his words last week were that it would be fanciful and impractical to expect the States to assume those responsibilities.

The result across the Nation would be an unmitigated disaster if Amtrak stops on the first of October.

In the Northeast, there is no question about the traffic density and there is no question about the fact that great disruption in traffic patterns would occur if Amtrak were eliminated.

Over 17,000 people a day use the line between Washington and New York. All the airlines combined only carry 12,000 people. If you have had any experience in our airports in that area in the recent past, you can appreciate the fact that we are not going to be able to absorb easily an additional 17,000 passengers a day into those facilities.

The commuter authorities of the Northeast will have to assume tremendous costs if Amtrak is eliminated. To give a somewhat provincial example, in my State, New Jersey Transit is the railroad commuter agency for the railroad operations. New Jersey Transit has estimated that the costs that will flow directly from Amtrak being out of the Corridor and which New Jersey Transit will be required to pick up comes to about $47 million in 1986.

The combination, by the way, of the UMTA cuts and Amtrak being eliminated will mean an additional cost to New Jersey Transit of about $196 million next year. That translates into a 40- to 50-percent fare increase.

The disaster will not be exclusively in the Northeast, however. As I suspect you know, in the other portions of the country, in many instances Amtrak is the only mode of transportation.

As for the claim that Mr. Stockman has made on occasion that only the "well-heeled" use Amtrak, Amtrak's figures state that out of the Northeast Corridor—that is, in the rest of the country—almost half of the passengers using the system have family incomes of less than $20,000 annually, and one-third of the non-Northeast passengers are over 55 years of age.

I will spare you the recitation to try to refute the idea that Amtrak is somehow exclusive in getting Federal subsidies from the Federal Government. It is clear that most of our public transportation systems require Federal assistance, and some of us are not offended by that idea.

One of the more graphic examples this last year is the $2 billion that went into the air traffic controllers system out of general revenues.

So it is clear that public transportation is, in fact, required to rely upon public financing.

To keep things in perspective, of the $684 million per year to finance it out of the Treasury, Amtrak is the equivalent of one-third of one Trident submarine.

The last point that I would make, Mr. Chairman and members of the committee, is that eliminating Amtrak's subsidy will not reduce the deficit; that Amtrak, being forced out of business, will bring about a whole lot of unintended consequences that will be extremely hard for this Nation to absorb; the 20 million people per year who use the system will have to find alternative systems with unintended consequences with regard to fuel efficiency, unintended consequences with regard to traffic congestion, unintended consequences with regard to environmental pollution.

There is the human dynamic of 25,000 people losing their jobs.

Mr. Chairman, in short, this is an idea that is folly.

I would just ask this committee to examine it in detail. I am sure that, when you do that, you will come to the same conclusion that many of us came to in 1981, when this same proposal was floated out and when it was rejected in a bipartisan way by the Congress.

I am hopeful that will happen again.

Senator PACKWOOD. Congressman, I have no questions. But let me congratulate you on your able diversity.

Last Friday you testified before the Finance Committee when I was presiding on Superfund. You were the best witness we had that day on the entire subject.

Now you come here on a few days notice and are one of the most able witnesses on a completely different subject. I never cease to be amazed by your ability and your knowledge of diverse topics.

Thank you very much for coming.

Representative FLORIO. Thank you very much.

[The statement follows:]

STATEMENT OF HON. JAMES J. FLORIO, U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. Chairman, I am pleased to have this opportunity to meet with you and members of the Subcommittee to discuss the proposed elimination of Amtrak, our nation's rail passenger system.

The Administration has proposed to eliminate all funding for Amtrak, claiming that it is a wasteful subsidy which contributes to the deficit. Unfortunately, the practical effect of the Administration's proposal is the end of Amtrak and the complete elimination of all intercity rail passenger service on October 1.

Mr. Stockman believes that the deficit will be reduced by $684 million if Amtrak's subsidy is eliminated. I must challenge his arithmetic. Amtrak has invested $3 billion in its rolling stock. That investment would go down the drain if Amtrak were eliminated. There would be no market for passenger cars and locomotives so this equipment would have to be sold for scrap. The government could expect to receive only $350 million on its $3 billion investment.

The federal government has invested over $2.5 billion in high speed rail passenger service over the last several years. Now we are abandoning the Corridor and selling the line for scrap. What sense does that make?

There is $2.1 billion in labor benefits that would have to be paid if Amtrak goes under. The Administration claims that the Federal government is not responsible for the benefits. Labor disagrees. The courts will make the final decision and it is certainly possible that the government will be made responsible for the entire amount. In any event all Amtrak's assets, paid for by the federal government will be sold for scrap to pay labor protection.

FEMA has stated that Amtrak is an important part of our national defense structure. When Amtrak is gone, how much will it cost the federal government to duplicate this national defense resource.

The elimination of Amtrak means that Conrail will be required to pay $114 million more annually to operate its trains on the corridor. Secretary Dole has recommended that Norfolk Southern be required to pay this amount if they take over Conrail, even if Amtrak continues to operate. Her suggestion may well affect the sale of Conrail to Norfolk Southern.

There are no short term savings from the elimination of Amtrak. Indeed, it will cost a tremendous amount of money in the short term to eliminate Amtrak. While Mr. Stockman may pretend that the budget looks better for one year, the government will be literally throwing away an investment of billions of dollars.

Fortunately, not all the members of the Administration support Mr. Stockman's claims that Amtrak is wasteful. In testimony before my Subcommittee last week, Transportation Secretary Dole said she believed Amtrak was performing "superbly" and would "do everything within (her) power to help Amtrak service continue," although she did not advocate continued federal support.

Mrs. Dole spoke of involving the private sector, commuter authorities and the states in saving some of Amtrak's lines. Sadly, however, her efforts will yield little success. Despite diligent efforts, I am unable to find anyone interested.

For example, the President of the Association of American Railroads has informed me that he has heard "no . . . interest expressed by any freight railroad" and that it would be "hard . . . to believe that any freight railroad would be interested in getting back into that service."

Similarly, the commuter authorities operating in the Northeast Corridor have indicated they "have neither the physical assets nor the financial resources" to pick up the service. And Indiana Governor Robert Orr, a strong supporter of Amtrak and Chairman of the Transportation, Commerce and Communications Committee of the National Governors Association, told my Subcommittee that the notion that states could subsidize Amtrak is both fanciful and impractical.

Despite Mrs. Dole's best intentions there will be no one either willing or able to assume any of Amtrak's lines on October 1. There will be no service.

The result will be unmitigated disaster in the Northeast. Amtrak carries 17,500 people a day between Washington and New York. All the airlines combined carry only 12,000 people daily. The highways and airports of the Northeast are already packed and now these facilities will have 17,500 more travellers a day.

Additionally, the commuter authorities of the Northeast will have to assume tremendous costs to cover maintenance previously shared with Amtrak. For instance, New Jersey Transit will have to pay an additional $47 million a year to maintain the portion of the Northeast Corridor that it uses. The authority can ill-afford this increase. Passenger fares could rise up to an estimated 50 percent.

But disaster will not be limited to the Northeast Corridor. In the west, Amtrak is often the only mode of transportation that can make it through the snow. If the carrier were eliminated, many westerners will be stranded for much of the winter. Furthermore, despite Mr. Stockman's claims that the "well-heeled" use Amtrak, almost half of the non-Northeast Corridor passengers earn a family income of less than $20,000 annually and more than one-third of all non-Northeast passengers are over 55 years of age. Without Amtrak, these citizens will be forced to take either more costly, more frightful or more uncomfortable modes of transportation.

By all standards, most notably Mrs. Dole's, Amtrak's financial performance has improved greatly in recent years—ridership is up and its subsidy, in constant dollars, is 26.6 percent less this year than that for fiscal year 1981. Furthermore, Amtrak's revenue to cost ratio has increased from 48 percent to 56 percent in the last few years and is expected to reach 60 percent in 1986.

Amtrak is subsidized by the federal government because it is part of our interstate transportation system, as are other parts. The operation and maintenance of the air traffic control system, for example, cost $2.1 billion in 1984 and is financed by general revenues.

Sixty-five percent of revenues of major airlines are for business travel and so constitute income tax deductions. These tax expenditures amount to $33 per passenger. About 20 percent of Amtrak's revenue in 1984 was for business travel resulting in reduced federal income taxes of about $2 per passenger thus making the Amtrak subsidy $34 per passenger or about the same as the airline subsidy.

Eliminate Amtrak's subsidy will not reduce the deficit. Rather, Amtrak will be forced out of business and the resulting expense will add to the deficit.

Amtrak is a critical part of our nation's transportation system and, as such, should be rewarded for its improved management, not punished as the Administration is proposing to do. We need Amtrak and I urge you to maintain efficient rail passenger service in this country.

Thank you.

Senator PACKWOOD. Next we will take the senior Senator from Connecticut, Lowell Weicker.

Oh, Jay, I am sorry. I did not see you come in. Do you have any questions?

Senator ROCKEFELLER. No, no questions.

Senator PACKWOOD. I don't know how I could miss your arrival. Good morning, Lowell.

STATEMENT OF HON. LOWELL P. WEICKER, JR., U.S. SENATOR FROM CONNECTICUT

Senator WEICKER. Good morning, Mr. Chairman. How are you?

Senator PACKWOOD. Good.

Senator WEICKER. I am going to submit my prepared statement for the record.

Senator PACKWOOD. It will be in the record in full.

Senator WEICKER. This is really a case of the wheel coming full circle as far as my own political career is concerned.

I was elected to the Connecticut State Legislature in 1963, and the first order of business for the State of Connecticut, as, indeed, it was the first order of business for the States of New Jersey and New York, was the imminent—and by that I mean monthly, in terms of time left—bankruptcy of the New York-New Haven-Hartford-Penn Central.

In that Connecticut Legislature of 1963, the legislature passed two items. No. 1 was landmark legislation of its kind, the Connecticut Transportation Authority, which I drafted, setting up a State agency to take over the commuter service in the State of Connecticut; and the Tristate Transportation Authority, which was a compact between the States of New York, New Jersey, and Connecticut, to try to coordinate their mass transit services.

Then, in 1968, I was elected to the Congress of the United States and started to work, finally culminating in 1970, when I moved to the Senate, in writing the legislation which created Amtrak.

I confess to all of you, just so that we have truth in testimony, that I have long espoused the nationalization of all passenger rail service in the United States.

Now, let's cut through what we are involved with here.

I noticed your witness list and I do not see Secretary Dole or anybody from the Department of Transportation, but I see David Stockman on it.

I think that pretty well speaks to what confronts us. You are not making a transportation decision for the United States. You are making a budgetary decision.

That is fair enough, but it totally flies in the face of what has been my own personal, political history and what has been the history of railroads in the United States: no, the private sector did not and does not want to provide passenger rail service.

In the fifties and sixties, it was the private sector that, in effect, had negative earnings and was continuing to pay $5, $6, $7, and $8 dividends. They absolutely raped the assets, whether in terms of the facilities and not taking care of them, in terms of rolling stock, and in terms of their cash. They ran it into the ground.

Nobody wants to run rail passenger service in this country. Yes; some of the long haul western railroads made a good thing of it. But where it finds its greatest use, nobody wants that business. You tell me what economically advanced civilized nation in this world does not have a first-class passenger rail service.

The admonition of the administration to get the Government out and the private sector will pick it up or the volunteers will pick it up—look, you are only 22 years away from history which has shown you clearly what the private sector did with passenger rail service in the United States. I don't think we need to be taught that lesson all over again.

I come to you today, having literally spent year after year on the Senate floor arguing for far greater funding for Amtrak. I remember the debates I used to have with my good friend Jim Allen. Jim was not exactly Amtrak's greatest advocate. I tried to point out to him at the time that the Congress was giving just enough money for the operating subsidy, just to keep their nose above water. Indeed, we were the ones who were creating the problem because we did not give enough money for the capital improvements that were required so that Amtrak could run a first-class railroad and not cost the taxpayers any money.

Those arguments were rejected. Those arguments were raised by me, along with Senator Kennedy, as we tried to break the Highway Trust Fund and make it a Transportation Trust Fund in this country.

There is no question in my mind that the only entity that is going to provide rail passenger service is the Federal Government.

We hear a great deal about how much Amtrak is costing the taxpayer. You know the statistics as well as I do. The Government subsidy, including the tax deductions, et cetera, for airplanes are just as much as they are for Amtrak. The argument of the administration is a very dramatic one, that every passenger is subsidized $35. However, the subsidy is actually a higher figure for the air passenger.

But the point to be made here is, has anybody figured out what the subsidy is for the automobile? It is enormous. It goes way beyond anything you are talking about regarding either Amtrak or air travel.

Do not think for one second that the Highway Trust Fund and the money that is paid in gasoline taxes covers the cost of that automobile. You would have to double what you pay for the automobile if that owner were to pay his or her own way.

What do you think the cost of air pollution is? What do you think the cost of parking is? These are items outside of the Highway Trust Fund.

So let us not go ahead and start picking apart the transportation system. Any good transportation system consists of individual transportation, the automobile, and plane, and train. I am not here, therefore, to tear one down so that I can achieve some sort of budgetary point.

Lastly, there is the energy issue, touched upon by Congressman Florio. Again, apparently we have forgotten the lessons of rail passenger service from the fifties and sixties by the private sector. Have you already forgotten the matter of the energy crisis?

That embargo started in 1974, and we really did not get a handle on it until about 1980.

Now, as I sit here in this Congress, I see all of the conservation programs going down the chute such as the Strategic Petroleum Reserve. Nobody cares about that any more.

Mass transit, whether it is Amtrak and interstate, or intrastate, in the case of UMTA, nobody cares about that.

Do you forget that fast just where we were and what we had to rely on?

Mr. Chairman, believe me, whether it is a matter of history, whether it is a matter of our future, whether it is a matter of moving people, whether it is a matter of cost, on all these grounds the proposal of the administration makes no sense whatsoever.

I know that there are those of you who probably feel you are not as well serviced by Amtrak, as is my State or those that are extremely populous.

But I don't think that is the way you operate this government. There are things that go on in West Virginia, things that go on in Oregon and Louisiana that, quite frankly, are a concern to a Senator from Connecticut. The business of rail passenger service is of enormous concern to the populous States of the Northeast and Mid-Atlantic, in addition to those it serves across the country.

I suppose whoever figured out this little budgetary scheme figured that, well, there aren't enough votes to go ahead and preserve Amtrak. I think that is where you go ahead and show your statesman's abilities, and I think they are prolific insofar as the three members that I am facing, and you state that this is something this Nation needs, and reject the budgetary basis for the decision being made.

Any questions that you have I would be glad to answer.

Senator PACKWOOD. Senator, you made the argument that no other civilized nation lacks a rail passenger transportation system, and that is true in theory. But you would be hard-pressed to say that Russia really has one, running east and west across Siberia.

Senator WEICKER. It has been a while since I have commuted in the Soviet Union.

Senator PACKWOOD. But, you know, most of Great Britain would fit between Maine and Washington. They have a heavy, dense, population. And, indeed, Washington, at least through Boston, has a heavy, dense population.

Would you make the same arguments for Amtrak in the Washington to Boston corridor that you would try to make on those east-west trains that run great distances? You have a dickens of a time getting people to ride on them in any great numbers.

Senator WEICKER. I think there is a difference.

I'd agree. Obviously the density is not there. But the system, a transportation system—not a rail system, but a transportation system—has to have the three elements that I discussed with you.

Let's understand one thing. I think it is great if you can make money off this. But I look upon transportation as being in the necessity category It is something, if you spend some money and if you lose some money, so be it.

Maybe there are savings. But, do I think it is bad that we are confronted with this administration idea? No, I do not.

I think it is absolutely necessary for people to come and to justify just what it is this Federal Government of ours is doing. To that extent I give the Reagan administration credit for having us look at all programs. It may be that you can do belt-tightening here.

Certainly over the past 3 years—and I did not need Mr. Stockman's zero funding proposal to go ahead and make us do our job—the Small Business Committee, which I chair, has cut Small Business administration programs back. We have made it a leaner administration. It is a good Small Business Administration the way it is. It is better as we have gone ahead and proposed.

But that does not mean that you throw out the Small Business Administration.

The same holds true for Amtrak. It very well may be some of these long distance runs, not in terms of money, Mr. Chairman, but in terms of either national security or in terms of passengers, do not justify having any train at all. But it should not just be a budgetary decision. The system ought to be in place to serve people. The system ought to be in place in terms of our security. The system ought to be in place should you be confronted with another energy crisis, and you will be the way this country is going right now.

So there is a large difference between the two areas that you have cited. But, again, I repeat that conceptually, as you can tell from my belief in nationalization, I just believe this Nation should have first class passenger rail service for everybody if they want it.

Senator PACKWOOD. Senator Rockefeller.

Senator ROCKEFELLER. No questions.

Senator PACKWOOD. Senator Long.

Senator LONG. I am worried about the problem of getting commuters into the metropolitan areas during the rush hours, Senator.

Just looking at the chart which has to do with Louisiana, where they report they were losing money, here we are. I think we could do without it except that somebody ought to do something to get those people into the heart of town.

We have a rail pass running right from the airport, for example, right through. Most of the traffic in New Orleans is basically an east-west movement. That is just the way the geography works. There is a big lake on the north side of the city and a river to the south, so traffic moves east-west. That is basically the general direction of the traffic.

But it's a terrible mess trying to get in there in the morning. I'm told that it would really create a problem in the metropolitan area of New York, for example, getting in and out of there if you don't have people riding those trains, as they do now, going through the tunnels into the metropolitan areas.

I assume that that is where the situation is going to be the most acute, is it not?

Senator WEICKER. It certainly is. There is no question about that. You would create total havoc in the tristate area if you tried to go ahead and shove everybody into his car.

Admittedly the States can make some contribution. But I think you know, Senator, just as you have seen the State of Louisiana develop, as I have seen my own State of Connecticut, that it is no longer just a series of cities. The population is moving out, moving out from those cities. Unless you want to pile everybody into an automobile, I don't know of any way to move them more efficiently than by rail.

Just the nature of becoming more affluent and becoming a population that is covering a greater proportion of the landscape argues for a rail transportation system.

I might add for those who argue the subsidy argument, I want to repeat that it has no basis at all. I want Mr. Stockman or anybody else to come up here and tell me what the subsidy is for each one of us in our automobile.

I used to have to argue the Highway Trust Fund matter which was a great favorite of Senator Randolph. That is the one issue we used to clash on, yearly. That was his pet project. I used to get the figures together—I don't have them with me here today—and I remember that you could literally double the cost of the automobile to every American if it were put on the basis of each one of us paying the full cost of that automobile—the full cost of that automobile.

So, the subsidy argument falls. Now the question is mobility.

I think Senator Long has well described the situation as getting worse city by city. To go ahead and take your intercity transportation factor out and say that the States can do it, they cannot.

Another interesting development is what used to be the Connecticut Transportation Authority just within the State of Connecticut—What do you think is happening now in my State of Connecticut? It is not a question of everybody just going to New York. Now you have a reverse commute, with people from New Jersey and New York coming into Connecticut. That traffic is as bad as what used to exist back in the 1960s.

Again, it shows, as business complexes move out from the inner cities, what is going on in terms of the requirements for transportation.

Senator LONG. Thank you very much.

Senator PACKWOOD. Senator Ford.

Senator FORD. I have no questions, Mr. Chairman.

Senator PACKWOOD. Senator, thank you very much.

Senator WEICKER. I thank you very much, and I do hope that you take care of this matter in the committee. But if you do not, I am going to do my best to take care of it on the floor.

Thank you very much.

Senator PACKWOOD. I know you have no other issue with which you are concerned, Senator.

Senator WEICKER. I have never been in such a lather as I am now, running from one committee to another and one leadership meeting to another.

Senator WEICKER. Thank you very much, Bob.

Senator PACKWOOD. Thank you and good luck.

[The statement follows:]

STATEMENT OF HON. LOWELL P. WEICKER, JR., U.S. SENATOR FROM CONNECTICUT

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you today to express my strong support for the continuation of federal subsidies for Amtrak. Without federal financial assistance, Amtrak will be forced to discontinue its service and the United States will be the only industrialized nation in the world without national rail passenger service.

Throughout my career, I have consistently fought for public sector participation in both coordinating and financing railroad service. As a Representative in the Connecticut General Assembly, I fought to establish a state transportation authority

and to provide state funds for the privately owned New Haven Railroad. In the United States House of Representatives, I served as Chairman of the Public Ground Transportation Committee and repeatedly argued for mass transit funding, as well as the establishment of a coordinated national transportation system. In 1970, as a member of the Senate Transportation Committee that authorized the creation of the National Railroad Passenger Corporation and Amtrak, I actively fought for the federal government to prevent the rapid abandonment of intercity rail passenger service all across the country.

There are those in the Administration and here in the United States Senate who will argue that the federal government should no longer be subsidizing intercity rail passenger service. Amtrak, or at least portions of Amtrak, they will tell you, could and should be run by the private sector. Mr. Chairman, to rely on the private sector for rail passenger service not only ignores history but condemns us to repeating it.

By 1970, a number of railroads in the Northeast and Mid-West Region of the United States, including the Penn Central which operated the New Haven Railroad in Connecticut, had declared bankruptcy. Those railroads that were not bankrupt were reporting devastating operating losses and had essentially stopped investing any money in rail and passenger car maintenance. According to the Interstate Commerce Commission, in 1969, railroads experienced a deficit of almost $225 million on passenger service. At that time, over 100 of the approximately 400 passenger trains operating throughout the United States were on the verge of discontinuing their service.

Abandonment of intercity rail passenger service was prevented when Congress passed the Rail Passenger Service Act of 1970 and authorized Amtrak to contract with private railroads to relieve them of passenger service. It is precisely because the private sector was abandoning intercity rail passenger service that Amtrak was created in the first place. We must not place the fate of such a vital service back in the hands of those who nearly caused its demise.

The Administration argues that the American taxpayer should not have to pay a 35 dollar subsidy per Amtrak passenger. In fact, the President has said, in some cases, it would be cheaper to provide Amtrak riders with an airline ticket. Mr. Chairman, the federal government subsidizes all modes of transportation in this country, particularly air travel. When you include the general funds used for operations and the tax expenditures lost due to business expense write-offs, the federal subsidy to air travelers is approximately 40 dollars—5 dollars more per person than the subsidy for Amtrak.

I also do not believe, as busy and as congested as air traffic is today, that the airports and airlines can accommodate all of the Amtrak riders who would be forced to fly rather than take the train, if Amtrak should cease to exist. This is particularly true in the Northeast Corridor where approximately 17,500 passengers ride Amtrak between New York and Washington, DC everyday. Even the Administrator of the Federal Aviation Administration agrees it would be with great difficulty and considerable additional expense that the FAA could handle 17,500 additional daily passengers. Without Amtrak, former rail passengers who do not choose to fly or who cannot afford to fly will be forced to use automobiles as an alternative. I cannot understand, given the energy crisis this country faced in the 1970's, why we would discourage the operation and development of an energy efficient rail service, and, instead, force people to travel by car or airplane.

On March 26 of this year, I introduced a bill to increase the tax on gasoline and diesel fuel by ten cents a year over the next three years. In addition to contributing toward reducing the deficit, I believe this tax will encourage greater use of Amtrak and mass transit systems as well as reestablish a much needed energy conservation ethic in this country. The elimination of federal funds for Amtrak can only result in a transportation and energy disaster. It is in our national interest to develop and maintain effective, energy efficient alternatives to automobile and air travel. It is also in our national interest to maintain rail service which can provide immediate mobilization of people and supplies. Amtrak currently works with the Federal Emergency Management Administration (FEMA) and the Army Logistics staff at the Pentagon to respond quickly and efficiently should Amtrak be called on to mobilize its resources.

In the past, Mr. Chairman, I have argued for completely nationalizing our rail passenger service. I believe rail passenger service is essential to any balanced national transportation system and I believe the federal government should play a key role in coordinating and financing this system. While I am not here, today, to argue for nationalizing Amtrak, I am here to urge this committee to support the federal funding essential for Amtrak to continue providing national rail passenger service.

When Amtrak was created by the Rail Passenger Service Act of 1970, Congress declared: "That rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; (and) that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose. . . ."

I urge you to support federal financial assistance for Amtrak so that the national rail passenger service Congress envisioned in 1970 will not disappear in 1986.

Thank you Mr. Chairman.

Senator PACKWOOD. Senator Mathias wanted to be here today but was detained. In his absence I would like his statement to appear in the record at this point.

[The statement follows:]

STATEMENT OF HON. CHARLES MCC. MATHIAS, U.S. SENATOR FROM MARYLAND

I appreciate the opportunity to testify before the Senate Commerce, Science and Transportation Committee on FY'86 funding for Amtrak.

Abraham Lincoln said "the legitimate object of government is to do for a community of people whatever they need to have done, but cannot at all or cannot so well do for themselves, in their separate and individual capacities." It is this standard that I believe we must uphold in making difficult budget decisions. Amtrak, a program that serves the public interest, clearly meets this criterion.

Passenger rail service is a significant part of the transportation network in the United States. If Amtrak is eliminated from the budget, it will be bankrupt and its service will end. There will be no more passenger trains.

The Congress must consider the alternative costs of having Amtrak and not having it.

We know the cost and benefits of keeping Amtrak. Amtrak estimates its needs for 1986 are $684 million, a cost which has steadily decreased annually since 1977.

The more useful question we must ask is: What is the cost of not running Amtrak?

The Administration concedes that ending Amtrak would require $2 billion in labor termination charges. In the Northeast Corridor alone, Conrail and state and local commuter agencies would have to absorb $116 million in additional costs just to sustain their operations. At least, 25,000 railroad employees would lose their jobs. Federal subsidies for alternative modes of transportation, particularly for highways and airways, would have to be increased sharply.

On a personal level, Senator Claiborne Pell and I recently rode a train from Washington to Baltimore, talking to people along the way about how Amtrak cuts would affect them. We asked them to fill out questionnaires to better enable us to evaluate the situation.

The results of our survey indicate clearly long-term social and economic benefits to maintaining rail service. The answers confirmed my expectations. There indeed would be a total disruption to the lives of the people who customarily use the trains. Amtrak's riders depend on the trains. They will not easily or quickly find any other mode of transportation that is economical or useful to them.

Some say train subsidies are out of line with federal support for other modes of transportation. But I say, absolutely not. Amtrak's average government cost per passenger amounts to $34. The total cost to the federal government per air passenger is much greater. For business air travel, the federal subsidy through tax deductions alone amounts to $33 per passenger. Additionally, it cost the federal government $2.1 billion to maintain and operate the Air Traffic Control System, translating into an additional $9 for each air passenger.

I do not propose that we end subsidies for air service or any other form of transportation. But I do believe we must take a close look at the social and economic consequences of terminating Amtrak. As Members of Congress, we have a responsibility to provide for the nation and its people what no individual state or region can provide for itself. The facts demonstrate that Amtrak meets Lincoln's criterion of "legitimate object of government."

Senator PACKWOOD. Next we will take Dave Stockman, the Director of the Office of Management and Budget.

Good morning, Dave.

Lowell Weicker was just saying he is having to go from committee to committee putting out fires and testifying. I am sure you have no place else to be right now but here.

Go right ahead.

STATEMENT OF HON. DAVID A. STOCKMAN, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Mr. STOCKMAN. Thank you very much, Mr. Chairman.

I have provided the committee a quite comprehensive report, some of it in technicolor, which I believe lays out quite thoroughly the reasons why, in the fiscal circumstances that we face today, we have to consider terminating the Amtrak subsidy entirely.

Since this is quite lengthy, I would not propose to go through all of it here today before the committee, but I would commend it to the record. What I would like to do is summarize and give an overview as to why this step is necessary and then lay out in very quick order the reasons that we have used to come to this conclusion.

Let me begin by saying that in the context of massive threatening baseline deficits and structural overspending that now reaches 25 percent of GNP, the question of continued subsidization of Amtrak or any other existing Federal program cannot be viewed in narrow, self-contained program terms. We have to look beyond the arguments that pertain to the program itself and look to the overall fiscal circumstance that we face.

We are now confronted with an overriding macroscale problem of built-in spending commitments that vastly exceed current law revenues. These commitments must be systematically and severely pared back if wide-ranging national economic harm is to be averted. The potential general harm to our economy and our society from failure to act on the fiscal problem, I would submit to the committee this morning, dwarfs into insignificance the specific and particular dislocations that may attend the termination of a program like Amtrak, or some of the others that we have proposed.

Therefore, the essential questions regarding Amtrak subsidies involve, No. 1, national necessity, No. 2, affordability, and, No. 3, relative fiscal priority.

The Amtrak program, in my judgment, clearly fails to meet these larger criteria:

First, is it a necessary or important part of our national transportation system? This statement and some of the graphs that follow unequivocally demonstrate that it is not.

Second, it must and does rank well behind other claims on the Federal budget, including national security, the safety net, social insurance commitments, veterans' benefits, education support, social services, science and research and a host of others.

In short, the case for terminating Amtrak subsidies is simple and straightforward. In a budget that must be pared back drastically, it ranks near the bottom of the program priority scale because it provides a transportation amenity that the Nation cannot afford and can readily do without.

Let me underscore this overall point because I think it is the heart of the case. If Amtrak cannot be terminated, I don't know

what significant expenditure reductions now embedded in the budget can be made anywhere. Almost any billion dollar range program in the budget that I can think of is more important in meeting national needs: WIC, handicapped education, rehabilitation services, health block grants, the FBI, the National Park Service, Customs and INS, the National Science Foundation, NIH, and the list could go on. These are all far more important in meeting critical national needs than is Amtrak.

Therefore, to those who say that Amtrak cannot be shut down, I would simply suggest this morning that you must complete the remainder of your sentence, and the remainder of your sentence, if you begin with that proposition, is that Federal taxes must be massively increased, because if we cannot shut down Amtrak and save $700 million a year, I'm not sure what we can save in this entire $1 trillion budget at all.

Mr. Chairman and members of the committee, in the remainder of the testimony, I have tried to outline the basic propositions that I think support this conclusion. I think the most important is that Amtrak is not a significant part of our national transportation system, whether viewed on a systemwide basis or in terms of various local service areas where Amtrak provides service.

I would note that less than one-quarter of 1 percent of intercity passenger-miles nationwide are supplied by Amtrak each year, one-quarter of 1 percent.

If you look at the chart that I have provided on page 4, this shows this rather graphically.

We have been warned time and time again that if the Amtrak subsidy were to be terminated, rather traumatic dislocations would occur, and that the proverbial big mess on the floor would result from shutting down the system. But I would argue with the committee this morning that this cannot be. A system that accounts for only a fraction of the 1 percent of the millions of people who move between intercity destinations each year is not a significant part of the way people move in this country, and to terminate this system could not make a major difference unless somehow you could persuade me or others that one-quarter of 1 percent makes a critical difference.

We have tried to put the rather insigificant role of Amtrak in our national transportation system between cities in further perspective. You will note on the left-hand panel, in the green, that Amtrak boards about 54,000 passengers nationwide each day across the entire system of 500 stations, 50 routes from coast to coast. That 54,000 cannot be very significant in a nation in which tens of millions of people move each day. It cannot be very significant when you compare it just to the Atlanta airport alone, that boards nearly 51,000 people. In other words, this entire system boards only a slightly fewer passengers each day than a single airport, hub airport, in our airway transportation system.

In the other two panels, we have shown a comparison between Amtrak outside the Northeast corridor. In the entire area from the Alleghenys to the Pacific Coast outside the Northeast corridor, Amtrak boards about 25,000 passengers a day nationwide. That is only half the number of passengers boarded in Chicago's O'Hare Airport alone.

If you look at Amtrak in the Northeast corridor, which is more heavily traveled and used, again, 29,000 passengers a day are boarded in the entire Northeast corridor, slightly more than a third the number of passengers who board just in the three New York airports alone.

You can say, well, those are national averages, but what about local areas? After all, that is where the service termination would occur.

So, we have tried to provide in perspective here a comparison of average daily Amtrak boardings for 24 major cities, compared to average daily boardings for alternative modes, a combination of bus and air, the green part of the bar being the air boardings, the white part being the bus.

But, as you look through these entire 24 cities, and they are a pretty good random sample of the country, you will see that in 12 or half of these 24 cities, Amtrak boards about 1 percent as many passengers each day as combined air and bus service do in those cities.

In another seven, Amtrak only boards 1 to 5 percent as many passengers per day as combined air and bus.

If you look at a random selection going through here, Alburquerque shows 59 people on average per day board Amtrak, and 5,000 use airline or bus service. For Dallas, 38 passengers per day board Amtrak, 52,000 use bus or airline service. For Pittsburgh, 84 use Amtrak and 18,000 use airline or bus service. Even in Chicago, where there is a significant Amtrak hub, 2,700 Amtrak boardings occur per day against 56,000 airline and bus boardings. For Detroit it is 126 versus 16,000. Los Angeles shows 1,600 versus 55,000. You can go on down the list.

Houston has 24 Amtrak boardings per day versus 26,000 for airline and bus. Cincinnati has 30 Amtrak boardings per day and 5,000, nearly, for airlines and bus.

One exception to this entire pattern among the 24 major cities in the country is Philadelphia, where you have about 4,600 Amtrak boardings as opposed to 13,000 airline and bus. The reason is that Philadelphia is located, obviously, so close to two other major metropolitan areas, New York and Washington, that train service makes some sense.

There are further comparisons, but I think, as you look through this you will see that I have not picked out a random or selective pattern here to make a case. Instead we have covered all 24 major metropolitan areas.

Phoenix, my last example, shows 27 Amtrak boardings per day and 16,000 for air and bus.

We summarize the whole system to show that these patterns of relatively insignificant relevance to the transportation system in the major urban areas apply to the country as a whole.

Amtrak has about 500 stations serving this route structure from coast to coast. As you see in this chart, 201 of those stations, or 40 percent, board, on average, 9 or less passengers a day, some of them only a handful. Another 184, or another 37 percent, the green bar, board between 10 and 49 passengers a day.

My point is that almost 80 percent of the Amtrak stations board less than 50 passengers a day and half of that 80 percent, or 40 percent, board less than 9.

So, it is strung out across the country.

We must ask from this point of view, is this an essential part of our national transportation system.

If we were to pull the plug on the subsidy, would there be legions of people stranded without service around the country? The answer is, it cannot be, because Amtrak provides such a small share, such a de minimis role, in the daily movement of people from one city to another in this country.

The second proposition is, if it is not an important part of the transportation system in some physical sense in moving people, is there any salvation for the underlying economics that make this such a costly budget item of nearly $800 million per year?

Again, I would have to remind the committee that in 1985, we are making structural budget decisions. We are not simply making small puts and takes, small adjustments here and there. We are trying to lay out a plan that will close a budget gap that is nearly $200 billion apart.

Therefore, I think if you examine the economics of Amtrak you will find that the subsidy element is not a marginal contribution that makes the difference between viable rail passenger service and unprofitable, but you will find instead that the subsidy is Amtrak. Without a subsidy that is deep and broad, Amtrak would not make any economic sense at all.

I have tried to lay this out in the next couple of pages, but I must begin by suggesting that the normal figures that you see regarding the loss per route based on short-term avoidable costs are not very adequate for our purpose of making a once and for all judgment about whether we can afford $800 million per year into the indefinite future as we try to right this horrendous and threatening budget imbalance.

The reason that the figures that you normally see for short-term avoidable costs are not relevant is that they do not include many of the long-run economic costs that must be taken into consideration if you are making a permanent long-run decision. They do not include overhead, depreciation, interest, common station costs for stations servicing more than one route, maintenance of facilities and heavy equipment, maintenance of way on the Northeast corridor, long-term equipment maintenance, and some commissary costs.

So what you have to look at in making a permanent structural budget decision, instead, is the fully allocated costs, so that we can see, over time, the capitalization of the system and the common support services that have to be provided.

I think if you look at the table on page 12, you will see that for each of the major components of the system, the fully allocated losses are very heavy. For the Northest corridor, it is $261 million a year, or $24 per passenger.

For the long distance routes, outside the Northeast corridor, it is $420 million a year, nearly $90 per passenger.

Senator PACKWOOD. Do I take it Dave, that that is because it is such a long haul with so few passengers that its costs are proportionately high.

Mr. STOCKMAN. That is one of the reasons, and the major reason. But we are dealing here with fully allocated costs because I am suggesting to the committee that if you are going to make a decision here to keep this in the budget for the next 10 years, it has to be capitalized. All costs need to be taken into consideration.

We are not making a decision about this or that route. We are not tampering with the system. The proposition is, does it make sense over the long haul to keep this in the budget when we know how little room we have to fund things.

Senator PACKWOOD. Excuse me. Let me ask you a question right here because the argument is often raised to maintain the subsidy for the Northeast corridor.

Does your chart mean that you could cut off the long distance trains and save $420 million and still run the rest of the system?

Mr. STOCKMAN. My chart means that in the long run you could save that, but in the short run you would have all kinds of transition costs, labor protection costs, and so forth, that would make it impossible to save $420 million in year 1 as a result of shutting down the long haul corridors. By year 10 or 12, assuming you could make various adjustments in transition expenditures, then that might be the case. But, again, I am asking the committee to look at this in the long-run perspective, because if we decide to keep Amtrak, that rolling stock is going to wear out and will have to be replaced. Work will have to be done year after year in the maintenance yards. The stations will have to be improved, and so forth. We are making a once in a generation, or at least once in a decade, decision.

But if you look in this chart I have categorized the major routes on the system in terms of their losses on a fully allocated cost basis. You can see, if you start on the left side, 17, or about 35 percent of the routes, actually generate only between zero and 35 percent of their fully allocated costs. That means that either this year or over time, the Federal subsidy would have to make up the other 65 percent to 90 percent of the difference, and that is a pretty striking demonstration that costs cannot possibly be recovered on most of these routes.

If you take the green bar and add it to it, only 36 to 45 percent of fully allocated costs are recovered for those 15 routes. So, overall, two-thirds of the routes recover less than 45 percent of the fully allocated costs, which means if you want to maintain the policy status quo, over time, the taxpayers are going to have to put in 55 cents on each $1 of cost.

You will note that only two routes, accounting for 4 percent of the routes and 1 percent of the passenger miles on Amtrak, the red bar on the right hand side in each case, actually recover more than 66 percent of the fully allocated costs.

In the following pages beginning on page 15, we show this same kind of comparison, line by line. The black bar indicates the loss or profit on a short-run, avoidable cost basis, which is a good way to decide whether to run a route. But the red bar shows the fully allocated long-run loss, and that is the measure that you need to use to make a policy decision for a permanent period of time.

As you run through these, beginning with the New York-DC Metros and other routes in the Northeast corridor on the first

page, you can see that the fully allocated losses are all sizable, and that the profits shown on a short-run avoidable cost basis are not there over the long haul.

On the next page, for instance, the Seattle-Chicago route has a $16 million loss on the short-run avoidable basis, but a $40 million annual loss on a fully allocated basis.

Similarly, New York-Florida has a $22 million loss on the short-run avoidable basis, but nearly $78 million a year on fully allocated basis. Even the Los Angeles-San Diego line has a small loss on the short-term avoidable basis and a $21 million loss on a fully allocated basis.

What I am suggesting to the committee is that the economics of Amtrak service are irredeemable. If you decide to maintain Amtrak, it should not be on the basis of any kind of illusion that it is close to breaking even, that things are improving every year, that if we string out the subsidy for another 4 or 5 years, maybe eventually it can go away.

I have tried to demonstrate quite clearly why I think that whole notion is illusory, by comparing the economic cost of providing service on Amtrak routes with the competitive price for a bus fare or an airline fare that is now being charged on those same routes.

The point here is two-fold. The bus companies are in the business of making profits. Although every ticket and every route does not recover costs for the system as a whole, it must recover the fully allocated cost or they go out of business.

The same is true with airline fares.

So, in these charts that follow on the next couple of pages, the green bar represents the economic cost of moving a passenger between the city pairs. When you compare that with the fully allocated cost of moving someone on the Amtrak system, you can see why the economics are so hopeless. For Boston-New York Metros, for instance, the fully allocated cost per passenger is $157. The air fare for the same distance is $65.

The point is, unless we subsidize Amtrak fares down to that $65 level, there is going to be very little demand, very little utilization, because people are not going to pay extra, except maybe for the service time differential.

As you look all the way through these charts on the next couple of pages, you see the same story.

In the case of Minneapolis to Duluth, for instance, the fully allocated economic cost to Amtrak for a passenger between the two points is $48. The bus fare between the same two points is $16. Unless Amtrak gets close to the $16 with Treasury subsidies, taxpayer subsidies, the demand simply will not be there.

You have further examples on a city pair basis. Again, in many cases the differential between the economic cost to Amtrak and the economic cost as reflected in the market price of fares is two to one or three to one. I think that just underscores the basic point.

The third point that I want to touch upon very briefly is this. If it is not an important part of the national passenger transportation system on an intercity basis, if the economics on a long-run basis are hopeless and irredeemable, what about the contention that if we shut off the subsidy next year, there are going to be literally

legions of passengers stranded in communities all over the country?

As a general matter, I cannot believe that is the case, if you look at the capacity of the bus system and the airline system versus the capacity that would be lost by Amtrak.

In this chart for instance, we point out that buses move or board 362 million passengers a year, serving 9,800 communities nationwide for intercity transportation. Airlines board 317 million, serving 775 communities. Amtrak only boards 20 million, serving 500.

In the main, and in a relatively short period of time, the capacities in the bus system, the airline system, plus automobile travel, would easily absorb any displacement that would result from the Amtrak system shutdown.

Further, I think it is fair to say that over the last ten years, with heavily subsidized fares on Amtrak, bus service has been harmed and diminished as a result, and with the subsidized Amtrak alternative no longer available, there is no reason to believe that bus service could not expand and adjust to fill in the gaps.

We show that in 1971, intercity buses served 458 city pairs in the Northeast corridor. But as a result of inability to compete with heavily subsidized Amtrak fares and services, by 1984, that was down to 248 intercity pairs, or a 46 percent diminution in service. If you removed the subsidized Amtrak service, then much of this could be reconstituted once it becomes economic to do so.

For those who want to look at their own State, we provided the same type of comparison in terms of the number of communities served in each State by buses versus Amtrak and the mean frequency of daily service at Amtrak points for Amtrak and buses. Again, you can see enormous capacity, enormous ability in most areas, in most places of the country, for alternative modes, and we have not even talked about automobiles here to absorb any transportation service loss that would occur.

It has been stated by Amtrak that if you were to agree with our proposal to eliminate the subsidy, suddenly, overnight, 79 communities would be abandoned without any kind of public transportation service, intercity service, bus, airline, and so forth.

But I think if you look at this table, you can see that that is more of a rhetorical debating point than it is a reality. Sixty percent of the 79 communities on the Amtrak list are within 10 miles of a bus station. Ninety percent of these communities, the 79 so-called abandoned communities, are within 20 miles of a bus station.

We want to do all we can to help people get to and fro in this country, but I do not think in the context of a $200 billion deficit that we are in a position to insure that people in a few communities have intercity bus service almost to their doorsteps. If they can get 10 miles in some kind of automobile transportation, they can get on intercity transit in almost all of these cities, as I have demonstrated.

The argument further is made that well, this may be true in most areas of the country, but what about the Northeast corridor. I think the point I am trying to make, on the Northeast corridor, is that a good share of the service in the Northeast corridor is marginal in the sense that very few passengers are moved on some of

these secondary lines, and that most people, according to Amtrak's own surveys, would not stay home, but would use buses, automobiles, and planes, of which there is plentiful alternative service throughout the corridor.

If you look at this chart something very significant is demonstrated there which I would like to underscore for the committee. It is that most of the traffic in the Northeast corridor is quasi-commuter traffic, or short-haul traffic between cities that are not very far apart. The idea that Boston to New York service, or New York to Washington express service constitutes the main business of Amtrak in the Northeast corridor is wrong. New York-Washington, for instance, only accounts for about 12 percent of the passenger-miles in the corridor. Most of the remainder is fairly short-haul and commuter type service that could be reorganized and survive, even if the overall Amtrak system were liquidated, as we are proposing.

It is said, to create a kind of metaphorical illusion, that New York City would be flooded with passengers if Amtrak were to shut down.

Well, about 8,000 passengers disembark in the two New York City stations each day, but about 3 million people enter Manhattan each day in automobiles. I cannot believe that an 8,000 difference out of a base of 3 million will produce anything more than statistical noise in the system.

It is also asked what about the 17,000 people who use the Amtrak service between Washington and New York? You would have to build a whole, new airport to take care of them.

My point is that very few of them are traveling through Washington to New York. Most of them are traveling short hauls along the way. According to Amtrak's own data, probably only 3,000 or 4,000 are traveling the express or through route from Washington to New York. When you look at the New York airports boarding 75,000 passengers a day, a couple of thousand more is not totally impossible.

Further, there are alternative modes of transportation. It should not be assumed that all of the corridor passengers are going to take airlines. Obviously, many would drive and many would use buses. The notion that you would have to have a whole new airport in the New York region or the Northeast corridor just to take care of the Amtrak traffic simply is not sensible.

The additional bus capacity, and airline capacity, that I have shown, plus other adjustments in the system could more than take up the slack.

The fourth issue is to whom the benefits are going. We have been very sensitive as we have tried to put this massive budget reduction package together, that programs that are targeted exclusively to providing life support for the needy and for the low income population of this country not be cut, like SSI, food stamps, and so forth. But in the case of Amtrak, there is just no question. Amtrak does not provide any significant benefit to the low income population. We have provided a chart that breaks out the Amtrak passengers by income interval and compares that to the distribution of income within the population as a whole.

You can see that for the low income, under $10,000, that is the poverty line and below, about 21 percent of the U.S. population has family incomes below $10,000; for Amtrak passengers it is 10 percent; for Northeast corridor passengers it is 6 percent.

By contrast, for families with incomes over $30,000, that is about 37 percent of the U.S. population, 51 percent of the Amtrak ridership, and 58 percent of the Northeast corridor.

Overall, nearly 70 percent of Amtrak passengers have family incomes in 1985 dollar levels of more than $20,000 a year, and more than 77 percent of the Northeast corridor passengers are so situated.

So, again, this is not a poverty issue. This is not a low income issue. This is simply an economic question of can we afford to waste $700 million a year in this manner.

Finally, the argument has been made—and this I think is the most weak and pitiful of all, though it is made time and time again—that it would cost more to shut Amtrak down than to continue to waste money in the manner that I have demonstrated here today.

The reason for that is the alleged cost of the labor protection agreement that has been negotiated between Amtrak and the unions.

First of all, again, we are not making decisions for one year. We are making decisions for the remainder of this decade and the next, because if we do not make these decisions, the harm and general disruption to our economy will be far more than anything we are talking about here could possibly be imagined.

Over time, the next decade, Amtrak will cost us $9 billion, and that is the reason why we should shut it down.

In the short run, those labor protection costs, which are estimated at more than $2 billion, as a result of a collective-bargaining contract that provides 6 years of severance pay for each employee who meets certain criteria if they are furloughed, those simply would have to be absorbed in any bankruptcy settlement and allocated between the various creditors, including the unions, as the bankruptcy judge would determine.

Clearly there are enough assets on the system, both rolling stock and real estate, to more than satisfy the claims of labor and others who may have claims against the Amtrak system in terms of bills that are payable and so forth.

But I would point out to this committee that, unless you are willing to have the bankruptcy proceeding occur and allow segments of the system to be reconstituted by a bankruptcy court and assets to be sold off, then it is indeed true that you cannot save any money in the short run, because the subsidy that you would be voting from the taxpayers of this country will go almost entirely to pay the claims of labor protection if efforts are made to scale back part of the system and furlough some of the employees.

So, you really have a clear, short-run choice here that is consistent with your long-run consideration. The short-run choice is to pull the plug on the subsidy, cause a court-supervised bankruptcy liquidation, allow the pieces to fall in place as they will, recognize that nothing significant or important is going to happen nationwide, because Amtrak is not significant or important, realize that

if we can't save this $700 million, I don't know where we are going to save any money at all, and we had better start telling the taxpayers what we are going to do to them.

Thank you, Mr. Chairman.

Senator PACKWOOD. Mr. Stockman, I believe you are well familiar with the argument as to whether or not the U.S. Government is liable for the labor protection contract. But I take it, in toto, it does not make any difference to you in terms of your recommendations, whether the Government is, indeed, liable. The Government owns the property, and you think the liquidation value of the property is sufficient to pay off the labor protection obligations anyway.

Mr. STOCKMAN. That's correct.

But I think it is clearly established now, both by GAO and by court precedents, that these are liabilities of Amtrak as a separate federally chartered corporation; they are not liabilities of the Federal Government and the general Treasury.

Senator PACKWOOD. By and large, you are saying that the bulk of Amtrak's assets are not its rolling stock, but its real property, which has a reasonably definable market value, and could be relatively easily sold.

Mr. STOCKMAN. Yes, Mr. Chairman. That is what I am suggesting.

Senator PACKWOOD. The argument is made of the rolling stock and who is going to buy it, and you made reference to Canada buying some. I want to come back again to what you are saying. The bulk of Amtrak's assets are real property in what is basically a relatively prosperous area, and you ought to be able to sell it for roughly the value placed on it.

Mr. STOCKMAN. That would be true, Mr. Chairman, because much of the short-haul traffic that might be profitable to some enterprise in the future is in that region and would have some market value that somebody would be willing to pay in order to reconstitute a commuter-type service within corridors where there is sufficient traffic.

Senator PACKWOOD. Senator Rockefeller.

Senator ROCKEFELLER. Mr. Stockman, one of the points that you brought out was with respect to bus and air alternatives.

It strikes me, in listening to your testimony, that there are several things that stand out. The testimony is superbly presented and superbly crafted, and, if taken in the overall, that is, if the United States were divided into all equal parts, places, regions, and populations, the case that you make is formidable. It is a matter of economics, of efficiencies, of long-term projections, things which generally bring a certain amount of commonsense amongst our people.

But all of our regions are not the same. The Northeast corridor is different. Appalachia, for example, West Virginia, is different from Arizona, California, Texas, and Washington.

In West Virginia, we are losing our bus service because of deregulation. One might say that there are a certain number of bus routes there now, but one might predict that there might be a half to a third of that in 7, 8, or 10 years. I think this Congress made a terrible mistake a number of years ago when it deregulated air service because, within about 2 months, American Airlines, United Airlines, and Eastern Airlines all left West Virginia as fast as they

could leave—making a decision which was a free-market decision, a sensible one for them, but most injurious for us.

My point, therefore, is, that whereas there is the overall budget priority—quite ignoring the fact that we give a lot of money to the World Bank which, in turn puts money into railroads overseas in Korea and a lot of other places, and we know the money goes to their railroad systems, even as we are considering cutting out ours—when you take one thing, Amtrak, and then you take another thing, the Appalachian Regional Commission, and then you take another thing, the Small Business Administration, and then you take another thing, the Economic Development Administration, away from a State like West Virginia or a region like Appalachia, the cumulative effect puts that State or that region in a position of vulnerability from which it cannot fight back in the aggregate.

The country can, though. I cannot dispute your passenger substitute formula. But I can dispute it in West Virginia because our people cannot get the 30 miles. It is like the Trip Program. The Trip Program used to be for seniors; it used to be 100-percent federally funded when it was presented, and now it is 100-percent State funded.

We cannot support, we cannot come through the constant taking away of bits and pieces of our fabric.

That is what strikes me as wrong about the Amtrak decision. I cannot argue on a national basis with you. But I can argue what it does along with other incremental pullbacks to parts of this country of which West Virginia and Appalachia are special to me.

That is not a question, is it?

Mr. STOCKMAN. Well, Senator, I think it is a good point. As you delayer these subsidies, you can cumulate the impact and you can see harm.

But now we are sitting here, worried about our economy, our national budget, and the prospects for our country in the future if we keep piling all of these subsidies, programs, and spending until they reach $200 billion more than we are taking in. And most people think that that is going to lead to enormous economic repercussions and dislocations which will literally cascade through our economy. No nook or cranny of the country will escape the effect.

I would just ask you to weigh the impact on West Virginia of a weak economy over the rest of this decade or of a recession against the impact of losing Amtrak service at 10 points in the State maybe one or twice a week.

I think we have enough experience with recessions to know that West Virginia is going to be harmed a lot more by a generally down, or weak, or unstable national economy, than by the need to adjust for a lack of Amtrak service, or maybe even the Economic Development Administration.

It is not a matter of weighing the deaccumulation; it is a matter of weighing the accumulation as it affects West Virginia or Oregon or any other State as well.

It is not an easy question. We're on the horns of a dilemma. But, as I look at it, I conclude that we have to make this decision for the national good and for the West Virginia good.

Senator ROCKEFELLER. Thank you.

Senator PACKWOOD. Senator Long.

Senator LONG. I do not envy you your job, Mr. Stockman.

I have no questions.

Senator PACKWOOD. Senator Ford.

Senator FORD. I don't envy him his job either, but I am going to ask him a question or two.

What would it cost in your mind under the best of terms to close Amtrak?

Mr. STOCKMAN. Well, again, Senator, as I indicated in my testimony, it depends on how you did it. I think you ought to do it clean.

Senator FORD. In the best of terms.

Mr. STOCKMAN. The best of terms? Terminate the subsidy October 1, 1985. It would not cost the Federal Government another dime after that.

Amtrak, as a private corporation, would immediately be taken into bankruptcy court, and a bankruptcy judge would then have to weigh and adjust the competing claims of labor and various creditors on the assets of the corporation. Just like any other corporation that goes bankrupt, some would be satisfied more than others. But there are enough assets in this system, as up against the liabilities, to satisfy the claims to some considerable degree.

That is one way. That is the no cost way in terms of the Federal budget.

If you want to go another route, which says withdraw the subsidy slowly over time, then, unless the labor unions are willing to voluntarily renounce their so-called New York Dock provision of the collective-bargaining contract, it is going to cost you a lot of money to shut down Amtrak because, if we started with the worst routes—look at my table and you might say cut out the 35 percent of the routes that are the least economic—the furloughed employees are going to require severance payments so large that it would probably equal or exceed any of the operating costs that you save by shutting down those routes.

So, you run into a catch-22, where the faster you shut down the system, the greater your labor severance payments are, 6 years worth of payments for every furloughed employee, and you end up with a short-run conclusion that you cannot save any money.

That is why the bankruptcy route is the only route to go, because that is the way properly to satisfy part of the claim.

Senator FORD. Are you convinced, then, that there is no obligation by the Federal Government as it relates to labor protection, and that we can force Amtrak into bankruptcy by jerking its subsidy?

Mr. STOCKMAN. That is right.

I do not think that the Federal Government would have the right—after all, this is a private contract, in the classic sense of the word, between a business enterprise, the National Rail Passenger Corporation, and a set of railroad unions. We, the Federal Government and the Congress, have no right to come in and modify, abridge, or change the terms of that contract. If we tried, we would be taken to court on the grounds of taking of private property. I do not think we would have a strong chance of prevailing.

If this agreement had been put into law by the Federal Government, that would be one thing. But it is a private collective-bargaining agreement that we really cannot tamper with and, therefore, the only way that we can stop the hemorrhage of this spending is to permit a bankruptcy court to partially satisfy the claims that everyone has.

Senator FORD. I am not a lawyer, Mr. Stockman, but something that strikes me is that somewhere along the way we, we the Government, had to be a part of that contract, or we would not be involved and you would not be here today.

So, as a result of being part of that contract, I am wondering if we would not then have to share part of the problem as it relates to bankruptcy or whatever might happen to that railroad and/or its employees.

Mr. STOCKMAN. Well, Senator, practically we have been a part of the problem because——

Senator FORD. Not the problem. I am talking about the contract.

Mr. STOCKMAN. Well, as a practical matter, we probably have been since it was the presence of the Federal subsidy beginning in 1971 that made the Amtrak system viable and operational economically. And it was subsequent to that that the labor contract was entered into.

But I am only talking here of a narrow, legal matter. In a narrow, legal sense, there are no liabilities that will stand against the Federal Treasury, only against the corporate entity of Amtrak.

Senator FORD. There will be roughly 25,000 jobs eliminated as a result of Amtrak's elimination, am I correct in that figure, or something close to that?

Mr. STOCKMAN. Yes; I think that is one of the reasons why we have to look at the sense of this system. It carried 54,000 people a day, and it employs 25,000 people to do it. In other words, we hire one person for every two we move. That is just an indication of the economic nonsense that we are involved with in this system.

Senator FORD. All right. I gave you an opening, now give me an opening.

Forty dollars and fifty cents per passenger is the cost to the Federal Government, according to you.

Mr. STOCKMAN. Yes, Senator, fully allocated over time, not each year, because some years we make smaller capital expenditures, and so the subsidy would be less.

But you cannot run a railroad without capital over time. So that figure includes the depreciated cost of the capital, of the rolling stock and other capital investments that are being used each year.

Senator FORD. Well, this is a judgment call, isn't it, on need of repair and replacement?

Mr. STOCKMAN. In the short run, it is a judgment call. In the long run, it is a fatal deficiency.

Senator FORD. I understand. It is hard to get around your wording. I just want to stay with you for just a minute, and you stay with me.

Mr. STOCKMAN. Sure.

Senator FORD. Some of the figures that I have read have been somewhat lower down in the thirties, about $10 less.

I hear my time is up. That is round one. Do you want me to finish this in round two?

Senator PACKWOOD. Finish up your question. Then we will go around again.

Senator FORD. This ties in to the other question. Why the difference? Is that your judgment of the capital expenditures?

Mr. STOCKMAN. Senator, it is two different concepts. The $35 figure is the out-of-pocket subsidy value. We have put in, what, $716 million last year? If you divide that by the passengers, it is $35.

What you have here is more a business economic concept. If you fully accounted for all of the current costs plus overhead and depreciation on a balance sheet and income statement basis, what would it be per passenger, and that is where the $40 comes from.

Senator FORD. I will get back to this, Mr. Chairman.

Thank you.

Senator PACKWOOD. Senator Kassebaum.

Senator KASSEBAUM. The only question I would have, and maybe you mentioned it, but I cannot find it here, is this.

Has passenger participation increased or decreased consistently over the last several years?

Mr. STOCKMAN. My recollection is that it has wavered at around 20 million for a long time.

Senator KASSEBAUM. So it has not gone either up or down?

Mr. STOCKMAN. It may have gone down slightly in the last couple of years. I can supply that for the record. But it is really not going in either direction.

Senator KASSEBAUM. But operating costs have gone down, is that not correct?

Mr. STOCKMAN. No.

The total subsidy has gone down because we are putting far less into capital today than we did in the late 1970's and early 1980's. In 1978, the operating subsidy was $600 million; last year it was $639 million.

So there has been no change in the operating subsidy requirement.

Capital costs are discretionary, and they are in bulges. They can be delayed for a while, but not indefinitely, obviously. On an operating basis, I do not see much improvement.

Senator KASSEBAUM. Obviously, you make a compelling case. I just wondered if there were a way to analyze over the last several years the ratio of the costs and the passenger travel, and if one could project ahead for several years in some sort of way what might be occurring against the loss. I think that it is a risk that we have to assume, regardless of the legal technicalities of, perhaps, our responsibility for labor protection.

Mr. STOCKMAN. Well, there is always the hope that things can get tighter and more efficient and that traffic will pick up and so forth.

But I think that series of charts in which I compared the fare for the competitive mode, bus or airline, with the Amtrak fully allocated cost per city per route indicates to you the underlying dilemma, and that is unless you subsidize down to the bus fare or subsidize down to the airline fare, you are not going to generate the traffic

that will be necessary to spread your costs and thereby reduce your losses.

Much of the traffic carried by Amtrak is in markets where they are not close to being competitive, and without a subsidy, it would not be viable.

Senator KASSEBAUM. Thank you.

Senator PACKWOOD. Senator Exon.

Senator EXON. Thank you, Mr. Chairman.

Mr Stockman, welcome.

As long as we are talking about subsidies and as long as we are talking about transportation, would you clarify for me what is the present administration's position with regard to essential airline service subsidies that were guaranteed to certain cities in the 1978 deregulation act?

Mr. STOCKMAN. Senator, we proposed to terminate that subsidy in the budget as well. But I will indicate that we did not persuade a sufficient number of Senators of the merits of that step, and it is not included in the compromise Senate-administration budget plan.

Senator EXON. Do you expect maybe to pick up a vote or two by putting that back into a grand compromise?

Mr. STOCKMAN. Well, that was not the real reason. The real reason was an argument over the merits. I said the merits were not there. We should not waste $50 million a year.

Others felt strongly that the merits were there, and they prevailed. But it did not have to do with anything as parochial as getting votes. It had to do with the merits of the case.

Senator EXON. Mr. Stockman, you do a very good job of coming up with figures. Many of them are facts. There are some questions in my mind regarding some of the facts. But, essentially, you have painted a pretty bleak picture.

Let me try to put this into perspective, if I can, with a question to you.

You have made many statements that we must balance the budget for the benefit of all, and I agree with that. I think that we are completely out of whack. I think in the last 4 years the deficit has tripled and the national debt has doubled. And as the President said in his televised newscast the other night, every man, woman, and child has a mortgage of $8,000 on his head. But when the President and you came into office, it was $4,000 for every man, woman, and child. So I think that is proof positive that things are out of control.

But let's try to get this back into perspective.

You said in response to a question asked by Senator Rockefeller of West Virginia that it was good for West Virginia, that it would be good for their economy to balance the budget. I think you and I agree on that.

But, really, when you come down to this and put it into perspective—and I am not saying that we should not look at the small items as well as the big items—certainly Amtrak, whether it is right, or wrong, good or bad, whether it serves a purpose or whether it does not, is a relatively small factor in those annual deficits and in that skyrocketing national debt.

So let me ask you this question, using your words that we are hemorrhaging in spending. Do you really believe that Amtrak's

subsidy of $600 million a year, good, bad, or indifferent, is as much a threat to further hemorrhaging of spending as is the $300 billion annual defense budget and/or and in combination therewith the $200 billion expenditure for foreign aid, including IMF and other foreign aid programs?

Which do you think is the most serious threat?

Senator PACKWOOD. Did you say $200 billion for foreign aid?

Senator EXON. If I did, I meant $20 billion. I said $300 billion in national defense and about $20 billion in total foreign aid.

Mr. STOCKMAN. Senator, I think the answer is that all spending, to the extent that it way exceeds our revenues, is a threat to the economy. Nobody is debating that. The totality of spending is way too big.

We then have to line up everything that is in the budget today and try to rank it by priority. When we get down to the bottom, we have to say either we excise these items down at the bottom or we raise taxes to cover it. That is the only choice we are left with.

It is a difficult process because everybody does not agree on priority.

But I think we would agree that, as a general matter, defense is way up at the top, and it becomes a question of how much is enough. We are fighting over that right now.

But we have almost closed the gap between the major people who argue about this. We are at three, three, three, in this package, and maybe you would support zero, three, three, I don't know. The difference is $3 billion a year.

That is what we are arguing about right now, not the $300 billion base.

The other big item is Social Security. It costs $200 billion a year. We are not arguing about that basic benefit. We are only arguing whether the COLA should be 4 percent, 2 percent, or zero percent for 1 year, and that is a difference of $3 billion, not $200 billion.

Once we set aside defense and a couple of billion dollar argument that we have, and Social Security and a couple of billion dollar argument that we have, and debt service that we have no argument on because we have to pay it, the only thing you are left with is billion dollar programs, dozens of them—dozens of them—such as handicapped education, a billion dollars; Head Start, $1 billion; rehabilitation services, a little over $1 billion; health block grants, $1 billion; ag research and extension, $1 billion; soil conservation and water conservation, $1 billion dollars.

The question is on all these billion dollar items, which ones are more important to the national good and which ones are less? I come to the conclusion that Amtrak is not one of the billion dollar items that we can afford, and some of these others we need to keep.

Senator EXON. Mr. Stockman, my time is almost up. Let me try to put this into perspective in a little different fashion.

Supposing you and I could sit down this afternoon over Amtrak, good, back, or indifferent, with around a $600 million a year subsidy, and if I could show you where you and I could likely agree, that I could find $600 million in that total of $300 billion for defense and $20 billion for foreign aid, if I could find $600 million out of that $320 billion for those other two big spending programs, might you not agree that, from the standpoint of quality of life, it might

be well to save $600 million out of those two big programs and put it into something that at least has some redeeming social value?

Mr. STOCKMAN. Senator, you present a proposition that is hard to say no to. But I would like to point out the implications.

If we sat down to restore Amtrak by taking a little bit out of defense, there will be others who will want to do the same thing on SBA, others the same thing on farm credit, others the same thing on rural housing, others the same thing on the upper income child nutrition subsidy, and a whole variety of other measures. There ain't enough room to take out of defense, even at your number, which is lower than in the package now, enough money to cover all of those items that are either eliminated in this budget package or severely reformed.

That is the problem. If you could only limit it to one, you could do it easily. But others are going to feel stronger about the merits of other programs you have not named.

Senator EXON. Thank you, Mr. Chairman.

Thank you, Mr. Stockman.

Senator PACKWOOD. Senator Rockefeller, any more questions?

Senator ROCKEFELLER. The World Bank continues to trouble me a little bit.

If ARC and EDA and the Small Business Administration and Amtrak and the whole block grant concept and the 1981 tax cut act which created a $750 billion cumulative deficit in the first place, if all of these things are so good for West Virginia and the resulting budget balancing which you hope to achieve here, of which Amtrak is, admittedly, a small part, then I am forced, if that $684 million is crucial to eliminate for West Virginia and for the Nation's sake and for 20 million passengers' sake, to look at the World Bank.

It is, I believe, true that we give Pakistan and Korea and India a lot of money and that the railroad portion through the World Bank could come up to over $837 million.

Now, my question to you is this. If I am to do battle on Amtrak with the Federal administration, then I want to play on an even field, on a level field. If West Virginia will prosper with a balanced budget and no completion of corridor G and no EDA and no SBA and no Amtrak and a lot of other things, then I guess I become a little less happy about the thought of $800-plus million going from us to India, Pakistan, and Korea for the purpose of railroads, of which $110 million is budgeted through the Federal budget process, as I understand it, each and every year. And then there is another process, callable capital, which is another way of making that money available.

My question to you, Mr. Stockman, is that if this is good for this country, why do we not, or are we not, eliminating those moneys for other countries and their railroad efforts?

Mr. STOCKMAN. Well, Senator, you raise a good question.

I will not pretend to be any kind of expert on the World Bank and the multilateral lending programs, and those institutions and what good they may or may not do.

What I know about the World Bank program is what has been recommended by the Trilateral Commission. They have indicated that this is very important in terms of the national interest, that we contribute to the World Bank, to the Asian Development Bank,

the Inter-American Development Bank, the African Development Bank, and so forth. And once we make the decision, that it is in the national interest to promote economic development in Third World countries, we cannot start quibbling as to whether it is going into copper mines or railroads or agricultural irrigation projects or whatever.

We have made a national decision, supported strongly by organizations, like the Council on Foreign Relations, the Trilateral Commission, and so forth, that this is in the national interest to do.

Once we have made that decision, I do not think we can make judgments about our own budget based on what these World Bank institutions are doing on a case by case basis.

I don't know whether you would argue with the Trilateral Commission or not. I thought you were strongly supportive.

Senator ROCKEFELLER. I don't think that is quite the point.

If the Congress participates in making money available and it is part of the Federal budget policy decisionmaking process, in which you also participate and make recommendations, I don't think the Trilateral Commission or the Council on Foreign Relations has anything to do with it. I mean, they issue papers, and people pay virtually no attention to them.

When what the Congress does, and what the Federal budget process does, involves even as little as $110 million for railroads in developing nations, then I become interested if you tell me that West Virginia can do without these things.

I mean, the Federal Government told us in West Virginia that we could do without regular airline services. Now that has hurt us.

It seemed to be national policy, which the country wanted, but it was bad for West Virginia. Bus deregulation is bad for West Virginia. It may be great for Phoenix and for Madison, WI. I have no idea. I understand your responsibilities to look at the Nation as a whole, but that, I think, is why you sit there and we sit here and then we work something out because the Nation is not as a whole in all of its moments and in all of its parts. There are some parts that are much more vulnerable than others. It does not seem to me to be unreasonable public policy to recognize those differences.

It is not by accident that coal and steel are centered in certain parts of the country, and a lot of that part of the country is in West Virginia. We have close to 16 percent unemployment.

That is not something that I think should escape your attention or should not in some way bear upon your public policy formulation. It's a reaction to numbers.

That is where I get my "layer theory" that these programs, one after another, as they are peeled away in the national interest, proceed to destroy a part of the country. Then I question not just as a Senator from that State, but I question whether that is proper public policy.

Again, this is a statement that I have made and not a question.

Mr. STOCKMAN. Senator, if I could just respond, again, I think it is a valid point. It is the essential dilemma of this business that we are in, how you make national policy, recognizing all the differences and variability in the country.

We are talking about Amtrak this morning. But we are now doing, as a matter of national policy, something very bad for the

country as a whole that is helping Pennsylvania and West Virginia. We have steel import quotas on.

Now we should not be doing that. That is harming the automobile industry, it is harming all downstream users of steel. But because we recognize that sometimes the parts are more important than the whole, we have gone ahead and negotiated import limitations with every major steel producer in the world, violating every concept of proper economics and trade policies. But we have done it because we want to help the part that would otherwise be inundated with sudden shocks and transitions that would pale into insignificance whatever we may be talking about for Amtrak.

The point is the regions have to decide what is more important. I really think that protection on steel is probably a lot more important to Pennsylvania and West Virginia than is Amtrak. We cannot have 100 percent policies that take into account each particular and parochial interest if we are going to have any kind of sensible national economy, trade policy, or fiscal policy.

That is the dilemma we are at.

Senator ROCKEFELLER. Mr. Chairman, may I have your indulgence for more time?

Senator PACKWOOD. You have my indulgence, but let me say that we are going to run this hearing straight through the noon hour. We have seven witnesses left to go, including Governor Orr and the president of Amtrak and others. I just want to make sure that the members understand that we have a long hearing ahead of us.

Senator ROCKEFELLER. Understanding that, Mr. Stockman, I simply cannot allow the steel issue to go by. Let me make one point.

Safe harbor leasing allowed the U.S. Steel Corporation to take $6.2 billion of their cash assets and spend that on the purchase of an oil company, the result of which was the closing down of dozens of mines and the elimination of thousands of jobs in West Virginia which had, theretofore, depended upon the steelmaking capacity of the U.S. Steel Corporation, which, given the safe harbor leasing alternative, a cash gift, declined to pursue what it is I think you would want them to pursue, the investment in their own plant.

Senator PACKWOOD. Senator, I am going to interrupt you. I want to keep, if I can, our focus on the railroad.

Senator ROCKEFELLER. And I apologize to the Chairman.

Senator PACKWOOD. I understand different priorities. When Senator Weicker was in here, he had a great many priorities that we heard Dave Stockman argue with him about. But if each of us gets into our particular State's priorities, we are not going to get to Amtrak at all today.

Senator LONG. But since this was brought up, I would like to hear Mr. Stockman's response.

Mr. STOCKMAN. Well, I notice there are members of the Finance Committee here who were involved in putting that particular provision into the law. I am no great expert on it.

My recollection was that most of the delegations from the regions of the country now speaking were strongly for safe harbor leasing.

Senator PACKWOOD. In fairness, I will say it was not our thought or intention that it be used for something other than reindustrializ-

ing industries that are becoming decrepit. I think we were surprised when it was used for other purposes.

Senator Long is next.

Senator LONG. No questions.

Senator PACKWOOD. Senator Ford.

Senator FORD. I thought Senator Rockefeller and Mr. Stockman were doing well, Mr. Chairman. I was enjoying that.

Let's talk about two items. What percentage of airline passengers are on business? Do you have a record of that?

Mr. STOCKMAN. I don't know that anybody has the exact statistic. I think somebody has said nearly half or 40 percent, somewhere in that range.

Senator FORD. How many of Amtrak's passengers would be basically business?

Mr. STOCKMAN. Well, I am led to believe that the percentage is smaller.

Senator FORD. All right.

Then, aren't we indirectly subsidizing the airline tickets when, if they are for business, they are written off and the Government gets no taxes and gives a credit instead?

Mr. STOCKMAN. I know that argument is made. But that is a tax policy issue. If you want to make travel and entertainment deductible as a legitimate business expense, do it.

Senator FORD. Why don't you just say travel and not entertainment? You put them both together.

We are talking about travel now, and I am trying to follow the chairman's lead.

Mr. STOCKMAN. OK. Travel. If we want to make travel deductible on the grounds that that is a valid business expense, that value is added to the productivity of our economy by people traveling, then I think you leave that in the code and you do not argue over who gets what proportion of the benefits.

If you think it is wrong, then change the Tax Code. But it does not involve a direct expenditure subsidy to the transportation service. It involves a subsidy, if anything, to the business that is causing its employees to travel. I mean, the airlines do not get the subsidy value. They simply may get a little enhancement of business.

Senator FORD. Yes; a little enhancement of business.

How many airline passengers do you think earn less than $10,000 a year, and how many do you think earn less than $20,000 a year?

Mr. STOCKMAN. As I recall, the numbers I have seen are fairly close to Amtrak's. The composition by income level is fairly close to Amtrak's.

Senator FORD. So, basically, then, you find very few would be using airlines?

Mr. STOCKMAN. Low income people?

Senator FORD. Yes.

Mr. STOCKMAN. Well, very few use Amtrak and very few use airlines. Mostly they use buses.

Senator FORD. Let me ask you this.

You talked about buses. Did you see the announcement by Greyhound in the last couple of weeks? It said that if things do not start

getting better, they are getting out of the franchise bus business. Have you seen that announcement?

Mr. STOCKMAN. Yes; and I would argue here that one of the major problems that Greyhound and others face is subsidized competition from Amtrak. There is no doubt about it. Bus companies are private enterprise, profitmaking firms who put up their own capital, take their own risks, and, on numerous, dozens, of routes around the country they have to compete for traffic and passengers with Amtrak, which has a pipeline to the Federal Treasury.

It is terribly unfair, and it is a terrible competitive policy. But that is what we are doing.

Senator FORD. Well, passenger miles by bus are 1.6 of the traveling public.

Mr. STOCKMAN. Pardon?

Senator FORD. Looking at your model, by passenger miles, bus is 1.6 of the traveling public; air is 14.5.

Mr. STOCKMAN. Yes.

Senator FORD. And rail is about half a percent, and Amtrak is about a quarter.

Mr. STOCKMAN. That's right.

Senator FORD. So none of the three is doing too well, are they?

Mr. STOCKMAN. No; people like to drive in cars.

Senator FORD. Compared to air and to auto.

Mr. STOCKMAN. That's right. People prefer cars and planes. That is the reality. That's why we don't need Amtrak.

Senator FORD. Well, we will see, Mr. Stockman. The figures that you have, that Amtrak has enough in assets to basically pay bankruptcy obligations indicate that no one would lose very much. It is going to be awfully hard to understand how those 25,000 employees, without a job over a long period of time, are not going to be a cost to the Federal Government extended into out years. Buses are in trouble. Basically, we are all in a little trouble, I think.

A little hurt might not be too bad; but when you take a meat-axe to one program and just eliminate it abruptly as against other programs, such as revenue sharing—and I can get into other issues as Senator Rockefeller has, but I will stay in the field of transportation—or road programs—it impacts all transportation. If you are going to shift all of these passengers to the highway, where 80 percent of your travel basically is already, then we are going to have to look at maintenance of our highways. A lot of roads are still under the Federal program.

Hopefully, we can satisfy everyone. I don't see how we can do that. But the hurt in one place should not be any worse than it is in another as we try to reduce the deficit and as we try to get to a balanced budget.

That is where I am trying to get. I think we can eventually get there if we just have a little compassion as it affects each of the regions. Let that factor in rather than just looking at the total picture, sitting here in Disneyland East, trying to figure out what is going on.

Mr. STOCKMAN. Senator, if I could respond briefly, I understand your point of equal hurt, as you have put it. But that assumes that programs do equal good.

Frankly, I would rather hurt Amtrak 100 percent and not hurt WIC at all. That is the kind of choice that we have to make here.

You can cut all programs 20 percent if you want to. But are all programs of equal merit? Do all programs contribute an equal amount of national good?

You know from your own priorities and things that you have worked hard on that that is not the case. So we cannot have equal hurt. We have to make choices and decide what programs we do not need so that we can save other programs entirely.

Senator FORD. You put one program against another program, and then you look at all of the other programs being damaged, and the 17 agencies being eliminated.

Let's shift just a little bit into equal sharing.

Senator PACKWOOD. Senator Kassebaum.

Senator KASSEBAUM. No questions.

Senator PACKWOOD. Senator Danforth.

The CHAIRMAN. Has your wife had the baby yet?

Mr. STOCKMAN. Not yet.

The CHAIRMAN. I have been at any number of meetings with you relating to the budget, at meetings with other Senators, and meetings with the press on the budget decisions that we are going to have to face.

Amtrak is mentioned in every discussion. The President had a little meeting with Senate Republicans the week before last, spoke to us for about five minutes and the subject of Amtrak came up. Newspaper articles about the budget resolution on the floor always mention Amtrak.

It would seem that the decision which we are going to make on the floor of the Senate in the next week or so on Amtrak has become almost symbolic of our seriousness in dealing with the deficit and the Federal budget.

Why would that be? Why is it that Amtrak has assumed a significance beyond the $700-some odd million in cash that is involved? Why the particular focus on Amtrak?

Mr. STOCKMAN. I think there is a good reason that has nothing to do with Amtrak per se. I guess I know the range of programs in the budget about as well as anybody. I will tell you that there are few programs that I can think of that rank lower than Amtrak in terms of the good they do, the purpose they serve, the national need they respond to.

I can also tell you that we have a 5 percent of GNP gap between what we are spending and what we are taxing.

I think the symbolic litmus test comes down to this. If we do not have the courage, if we do not have the foresight, if we do not have the comprehension of our problem sufficient enough to get rid of Amtrak, I don't think we are going to save much out of the budget at all, and we are going to face either enormous deficits, or down the road, whopping tax increases at some time in the future.

That is how it all breaks out and boils down, once you have gone through this budget from top to bottom, once you have a clear-headed view of the fiscal situation we are in.

Amtrak is the litmus indicator. If we cannot get rid of this, we are heading for massive economic and fiscal trouble or a whopping tax increase sometime in the future.

Maybe that is why we talk about it so much. But that happens to be the bottom line reality.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator EXON. Mr. Chairman.

Senator PACKWOOD. Senator Rockefeller is next.

Senator EXON. No, he is not, Mr. Chairman.

Senator PACKWOOD. Oh, I apologize. Did I skip you, Senator Exon.

If so, I apologize.

Senator EXON. I thank the chairman.

I have one question, and I will be very brief because I know we want to move on.

Mr. Stockman, I want to correct an implication that you have left, at least so far as Nebraska is concerned, and I think probably you will agree.

In Nebraska, the bus lines are in big trouble because they have not been able to have the boardings in the small communities. The small communities in Nebraska are where we are having great, great transportation problems.

Now not for a moment am I saying that either the airlines and/or Amtrak are going to solve that. But it is the whole issue of what is going on in rural America today and follows on, basically, what Governor Rockefeller was trying to bring home to you, which I think is a concern to you and should be a concern to us.

I would certainly say that that the reason for the five stations that are served by Amtrak in Nebraska—are not one of the reasons that our bus companies serving rural Nebraska are in difficulty, which as far as Nebraska is concerned, an analogy that is not correct.

I have one point, and this is a question.

You make the true statement that the bus companies are free enterprise systems, that they live and breathe on their financial statements.

Would you not agree, though, that, indirectly, at least, we heavily subsidize the bus companies with the massive amount of taxpayer money that goes into our road building and road upkeep program?

Mr. STOCKMAN. My understanding, Senator, is that the road tax is a user fee designed to cover the cost of the service provided. In the Finance Committee they have great arguments about that and whether it is properly allocated between passenger cars and buses and trucks and so forth.

But basically, we do run a 100-percent cost recovery system on the highways, so there isn't a subsidy. The buses are paying the fuel tax.

Senator EXON. In other words, what you are saying is that if the buses had to go out and build their own roads to travel on, they would still be making money?

Mr. STOCKMAN. You know, if a bus ran on a rail it would be a railroad and not a bus. I mean, a bus uses rubber tires. I cannot quite understand the point.

They pay their proportionate share of the national highway transportation system, as I understand it.

Senator EXON. I suspect that the bus companies would not very likely be in business today if they were paying their full share. Now, I am not saying that is wrong. That is part of our overall transportation system.

But if you really believe that the buses are not indirectly subsidized by taxes and the cost of keeping up our road system, then I think that is one of the possibly less compelling parts of your argument.

Senator PACKWOOD. Senator Rockefeller.

Senator ROCKEFELLER. No more questions.

Senator PACKWOOD. Senator Long.

Senator LONG. No, thank you.

Senator PACKWOOD. Senator Ford.

Senator FORD. No, sir.

Senator PACKWOOD. Senator Kassebaum.

Senator KASSEBAUM. No.

Senator PACKWOOD. Senator Danforth, any more questions?

The CHAIRMAN. No.

Senator PACKWOOD. Mr. Director, thank you very much. We do appreciate it.

[The statement follows:]

STATEMENT OF HON. DAVID A. STOCKMAN, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

OVERVIEW

- In the context of massive, threatening baseline deficits and structural overspending that now reaches 25% of GNP, the question of continued subsidization of Amtrak, or any other existing Federal program, cannot be viewed in narrow, self-contained program terms.

- We are now confronted with an overriding macro-scale problem of built-in spending commitments that vastly exceed current law revenues. These commitments must be systematically and severely pared back if wide-ranging national economic harm is to be averted. The potential general harm from failure to act on the fiscal problem dwarfs into insignificance the specific and particular dislocations that may attend the termination of a program like Amtrak.

- The essential questions regarding Amtrak subsidies, therefore, involve national necessity, affordability and relative fiscal priority. The Amtrak program clearly fails to meet these larger criteria:

  - First, is it a necessary or important part of our national transportation system? This statement unequivocally demonstrates that it is not.

  - Secondly, it must and does rank well behind other claims on the Federal budget including national security, the safety net, social insurance commitments, veterans benefits, education support, social services, science and research and a host of others.

- In short, the case for terminating Amtrak subsidies is simple and straight forward: in a budget that must be pared back drastically, it ranks near the bottom of the program priority-scale because it provides a transportation amenity that the nation cannot afford and can readily do without.

I. AMTRAK IS NOT A SIGNIFICANT NATIONAL TRANSPORTATION SYSTEM

- Only one quarter of one percent of total intercity mileage (including auto) was provided by Amtrak in 1983, as shown on page 4, the "Modal Shares" chart. Even if auto mileage were excluded, Amtrak accounts for less than 2 percent of intercity mileage.

- In 1984, Amtrak boarded about 11 million passengers at its 25 busiest stations. By comparison, the airlines boarded 202 million passengers at the 25 busiest airports. Boardings at the largest airports and train stations are shown below.

Boardings at 5 Busiest Airports and Amtrak Stations - 1984

Airport	Millions of Passengers	Amtrak Station	Millions of Passengers
Atlanta	19	New York-Penn Station	2
Chicago O'Hare	19	Philadelphia	2
LA International	14	Washington, D.C.	1
Denver	12	Chicago	1
San Francisco	11	Los Angeles	1
Total	75	Total	7

- Page 5, the "Passengers Boarded Per Day - 1984" chart, demonstrates how few passengers are actually boarded by Amtrak.

  - Atlanta Hartsfield airport boards nearly as many passengers per day (51,000) as the entire coast-to-coast Amtrak system with 500 stations and 49 routes (54,000).

  - Chicago O'Hare airport boards more than twice the number of passengers per day (52,000) than all Amtrak non-Northeast Corridor passengers boarded per day (25,000).

  - Even on the most heavily utilized part of the Amtrak system -- the "Northeast Corridor" between Boston and Washington -- the New York area airports alone (JFK, LaGuardia, Newark) board 260% more passengers per day (75,000) than are boarded by Amtrak on the entire Corridor (29,000).

- Likewise, train boardings at major stations are small fractions of airport/bus boardings, as shown on pages 6-9, the "Amtrak Daily Boardings vs. Air and Bus" chart: among 24 major metropolitan Amtrak stations --

  - Amtrak boardings are less than 1% of combined air and bus boardings in 12 cities (50%).

  - At another 7 cities, Amtrak boardings are 1-5% of combined air and bus boardings.

  - In only 5 cities do Amtrak boardings exceed 5% of air and bus boardings: New York (19%), Washington, D. C. (13%), Baltimore (14%), Philadelphia (36%) and San Diego (7%).

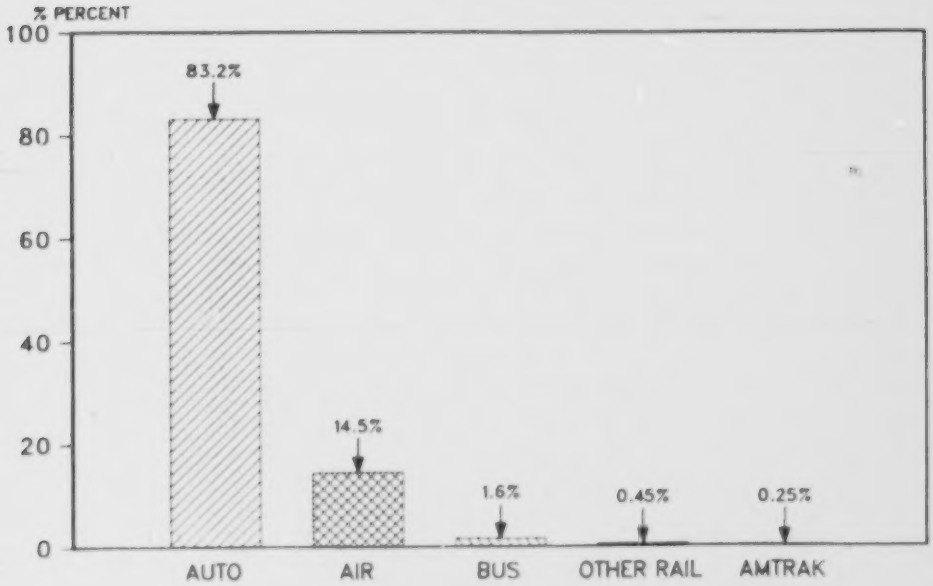
- Amtrak is an exceedingly marginal mode of transportation. Among its 500 stations, as shown on page 10, the "Amtrak Station Utilization" chart, --

  - less than 10 passengers per day board the train in 40% of Amtrak stations;

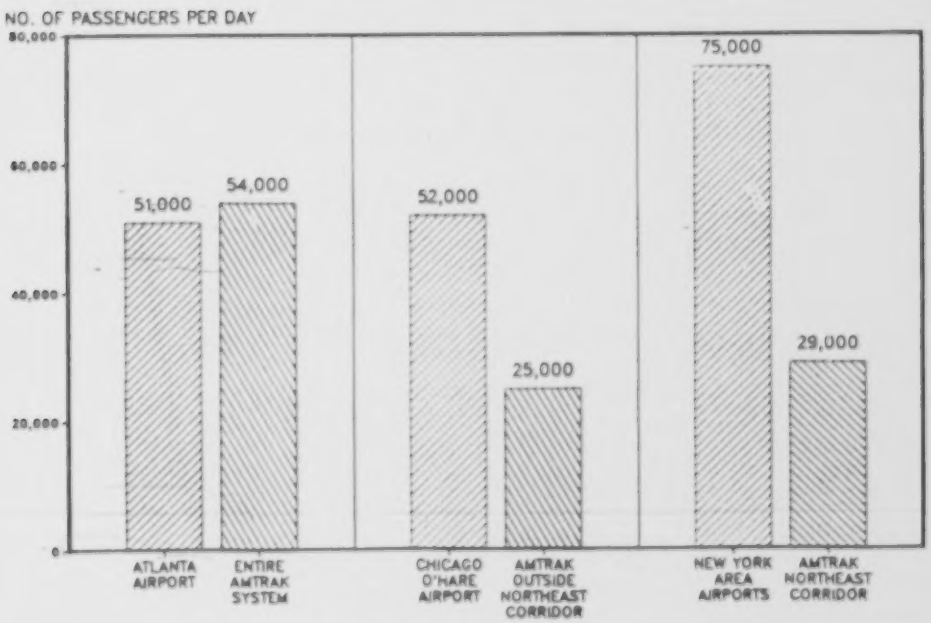
  - less than 50 passengers per day board the train in three-quarters of Amtrak stations;

  - only 14 Amtrak stations or 3% board more than 500 passengers per day.

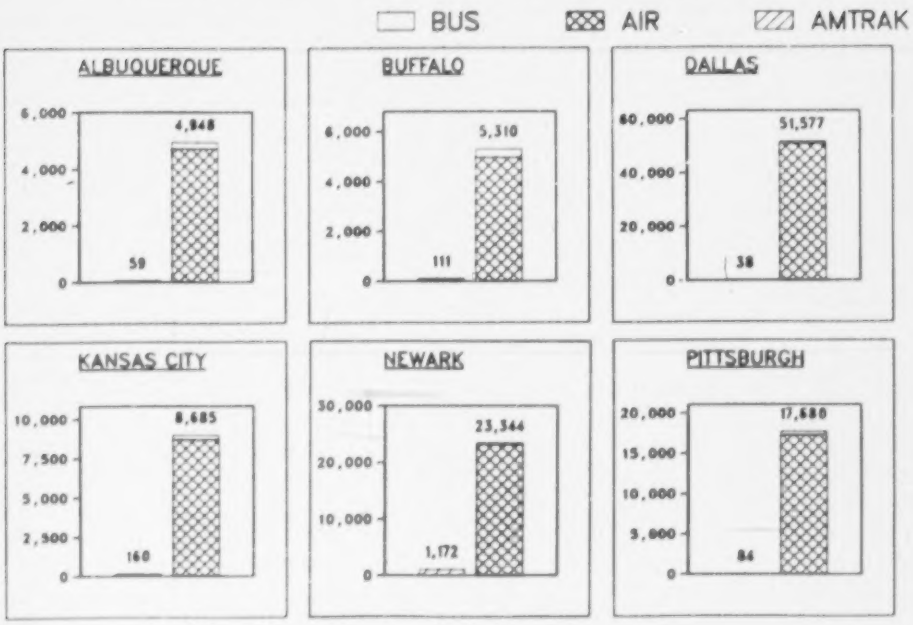
MODAL SHARES
(BY PASSENGER MILES)



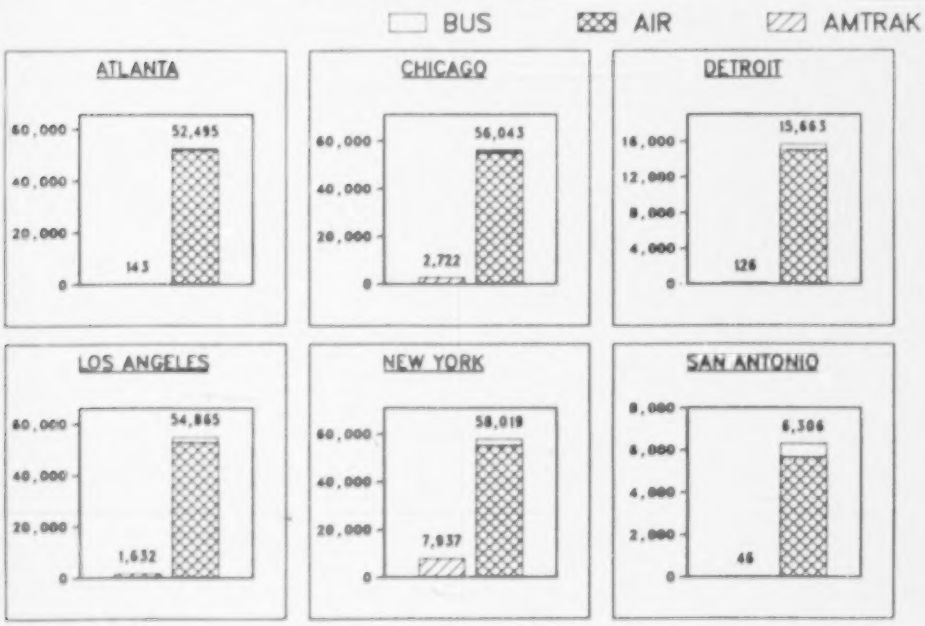
PASSENGERS BOARDED PER DAY – 1984



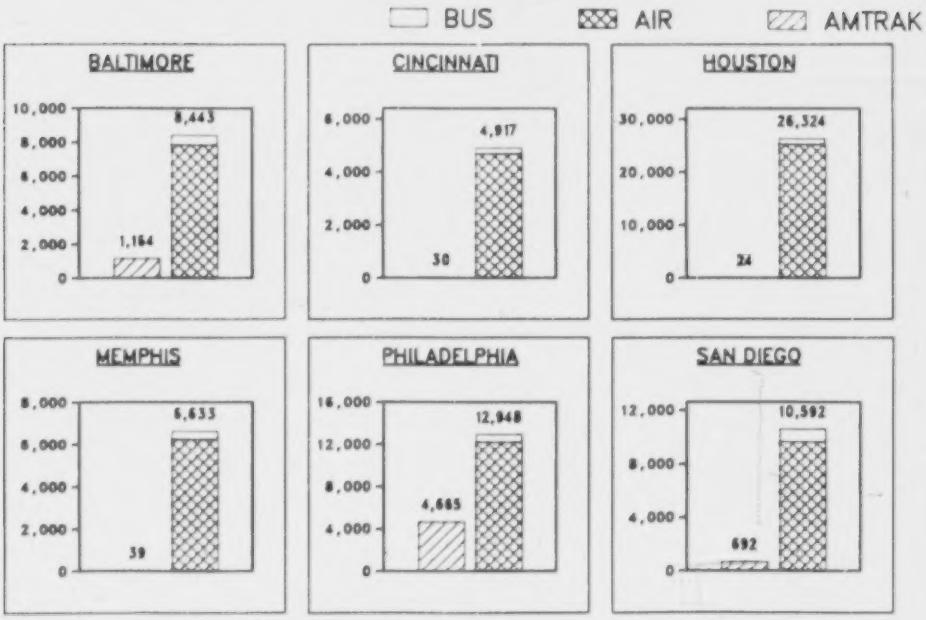
AMTRAK DAILY BOARDINGS VS. AIR AND BUS



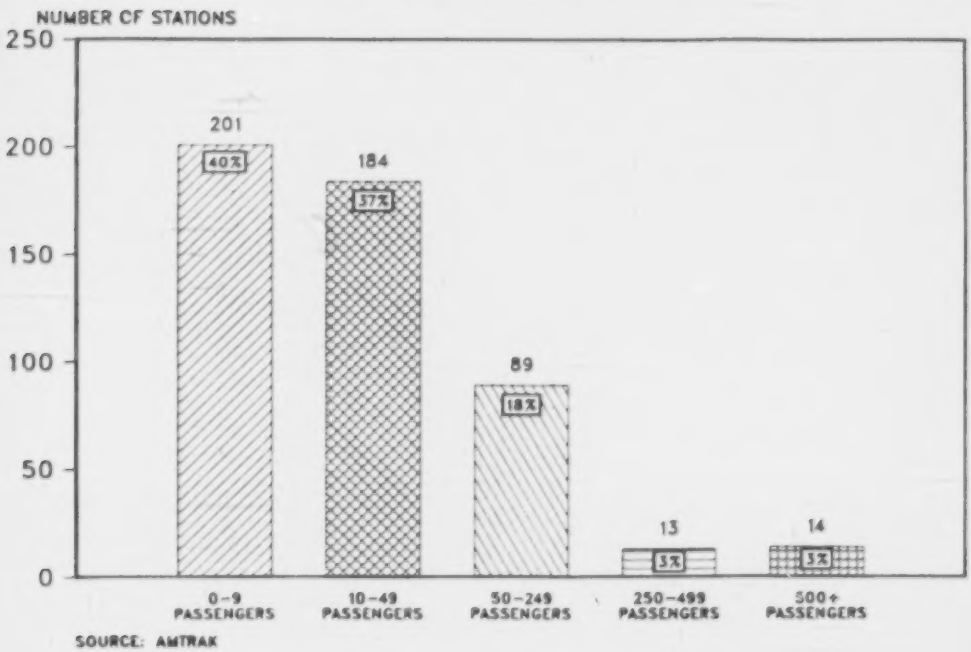
AMTRAK DAILY BOARDINGS VS. AIR AND BUS



AMTRAK DAILY BOARDINGS VS. AIR AND BUS

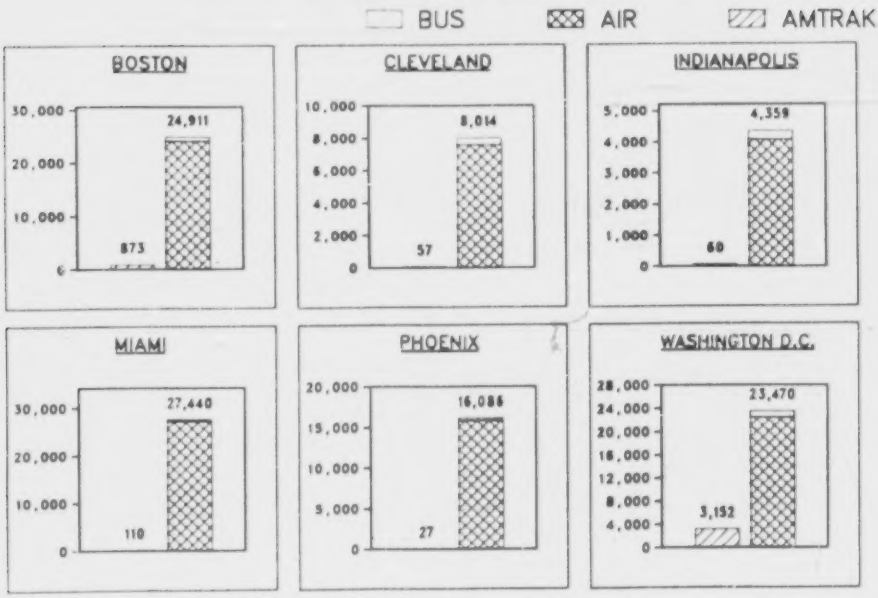


AMTRAK STATION UTILIZATION
BOARDINGS PER DAY



SOURCE: AMTRAK

AMTRAK DAILY BOARDINGS VS. AIR AND BUS



II. AMTRAK IS NOT REMOTELY VIABLE ECONOMICALLY

"Short Term Avoidable Costs": Amtrak's Misleading Cost Measure

- The full cost to the Government of subsidizing Amtrak cannot be calculated by using Amtrak's preferred measure, "short term avoidable costs".
- "Short term avoidable costs" only include a certain portion of operating costs on a single route, such as crews, fuel, some equipment maintenance, and reservations. Not included are many other routine expenses: overhead, depreciation, interest, common station costs for stations servicing more than one route, maintenance of facilities and heavy equipment, maintenance-of-way on the Northeast Corridor, long term equipment maintenance, and some commissary costs.
- Amtrak's "short term avoidable costs" measure is only useful when looking at the marginal cost of adding or terminating a single route on an already existing system. It is not useful for examining the economic viability of the system as a whole. No viable business could survive for long if it operated on the basis of its "short term avoidable costs."
- A much better measure system-wide of economic viability is fully allocated costs, because it includes the cost of capitalizing the system and providing common support services on all routes.
- When full, rather than partial, costs are calculated, 88% of Amtrak's routes recover less than 56 cents on the dollar (as shown on the chart "Route Distribution by Percent of Cost Recovery," on page 14. Many routes recover far less, such as New Haven-Springfield (13%), Philadelphia-Harrisburg (14%), Chicago-Valparaiso (17%), Portland-Seattle (25%), Chicago-New York (30%) and L.A.-New Orleans (34%).
- Systemwide, Amtrak had a short term avoidable loss per passenger mile of about 2 cents, but a fully allocated loss per passenger mile of 17 cents.

Summary of Amtrak Fully Allocated Losses by Route Type in 1984

Route type	Total Loss	Fully allocated loss per passenger
Northeast Corridor.....	$ 261 million	$24.17
Short Distance.....	123 million	28.13
Long Distance.....	420 million	89.55
All routes.....	$ 804 million*	$40.50

*Amtrak's 1984 net loss was $763 million. Difference between $763 million and $804 million is attributable to non-passenger revenues.

Route Performance Looks Good Only on an Avoidable Cost Basis.

- Because short term avoidable costs omit so many costs, many routes misleadingly look like reasonable performers.

- As shown in the chart "Avoidable Profit (Loss) vs. Fully Allocated Loss" on pages 15-16, the New York to Washington, D. C. Metroliners made a short term avoidable profit of $16 million in 1984 but actually lost $34 million when all costs were included. Similarly, the Boston to Washington, D. C. train made a so-called avoidable profit of $15 million, but really lost $79 million when costs were fully allocated.

Amtrak's "Revenue-to-Cost" Ratio Distorts the Cost Picture

- Although Amtrak claims to have recovered 56 cents on every dollar of expenses in 1984, it neglects to factor into its cost structure such normal business expenses as depreciation and interest expenses. Indeed, Amtrak's Annual Report shows that its 1984 operating revenues ($759 million) are less than 50% of its total expenses ($1,522 million). Furthermore, its operating revenues include receipts not related to passenger fares, such as:

  - interest primarily earned by banking Federal grant funds ($25 million);
  - proceeds from selling tax benefits or "safe harbor leasing" ($8 million);
  - payments from other commuter rail and freight rail companies operating on the Northeast Corridor ($68 million);
  - concession and other real estate revenues ($22 million); and
  - investment in other non-passenger activities ($50 million).

Amtrak's Cost of Providing Service Far Outstrips Competing Buses and Airlines

- The price of an airline or bus ticket is a proxy measure of the true economic costs of providing those passenger services. The ticket price should not only recover all operating and capital costs, but also provide a reasonable profit to the carrier.

- Conversely, Amtrak's ticket prices do not reflect the cost of providing service. The charts on pages 17-18, "Amtrak Cost Per Passenger vs. Air or Bus Ticket Price," illustrate that Amtrak's costs for carrying passengers are much greater than those of competing modes.

- For example, airplanes currently move people from Los Angeles to Chicago for $195.00. The same trip costs Amtrak $228.00 per passenger, of which the Federal Government currently subsidizes $131.24, or 58% of the cost.

- One can't help but conclude that on most Amtrak routes it would be cheaper for the Federal Government to buy passengers a bus or plane ticket rather than to continue subsidizing the ridiculously expensive Amtrak system.

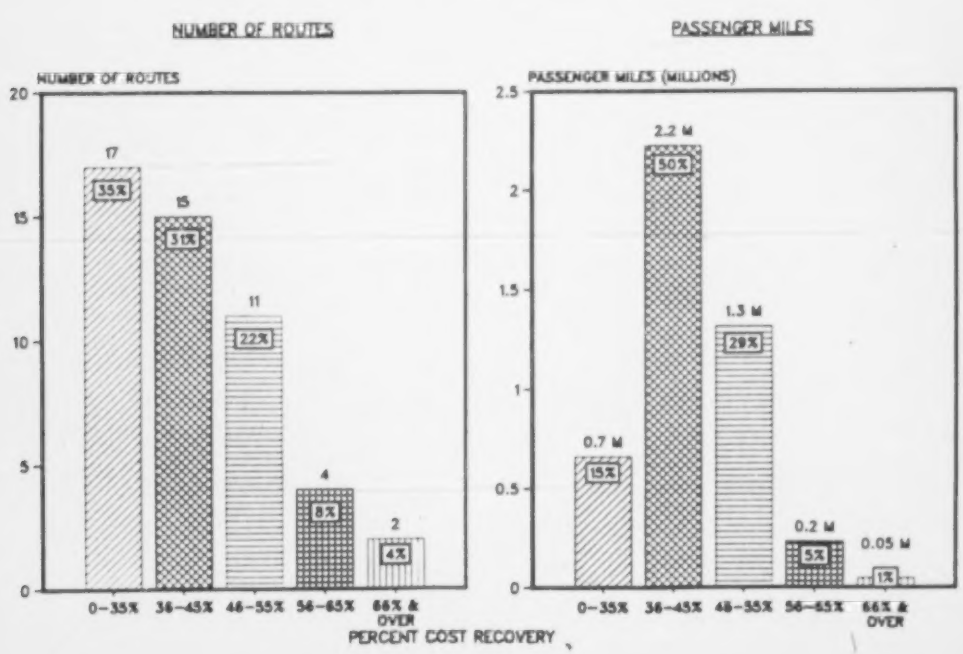
Amtrak has Failed in its Original Goal of Profitably Revitalizing the Passenger Rail Industry

- The corporation was originally authorized on a two-year trial basis as a for-profit corporation.

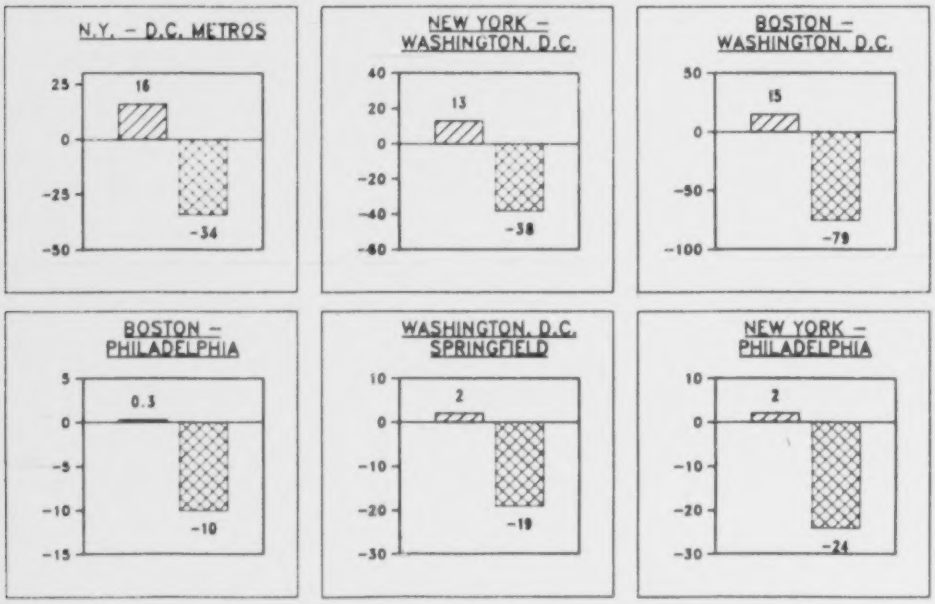
- Instead, the cost to taxpayers since its inception in 1971 has been nearly $9 billion -- over $11 billion if Northeast Corridor improvement costs are included. Costs projected for the next decade exceed another $8 billion.

- Systemwide, the average direct federal subsidy per passenger in 1984 was $35.

ROUTE DISTRIBUTION BY PERCENT OF COST RECOVERY

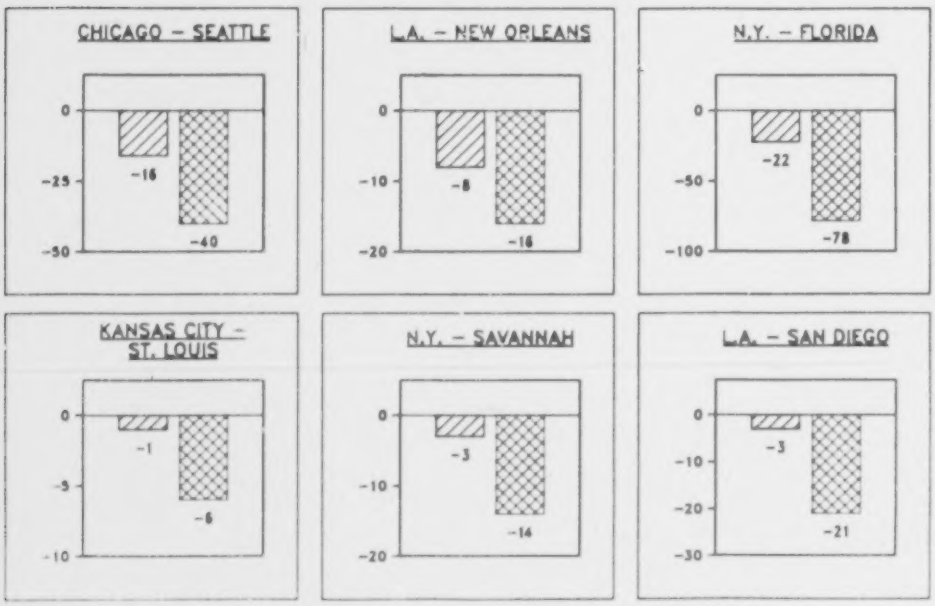


AVOIDABLE (PROFIT) LOSS VS. FULLY ALLOCATED LOSS
($ MILLIONS)



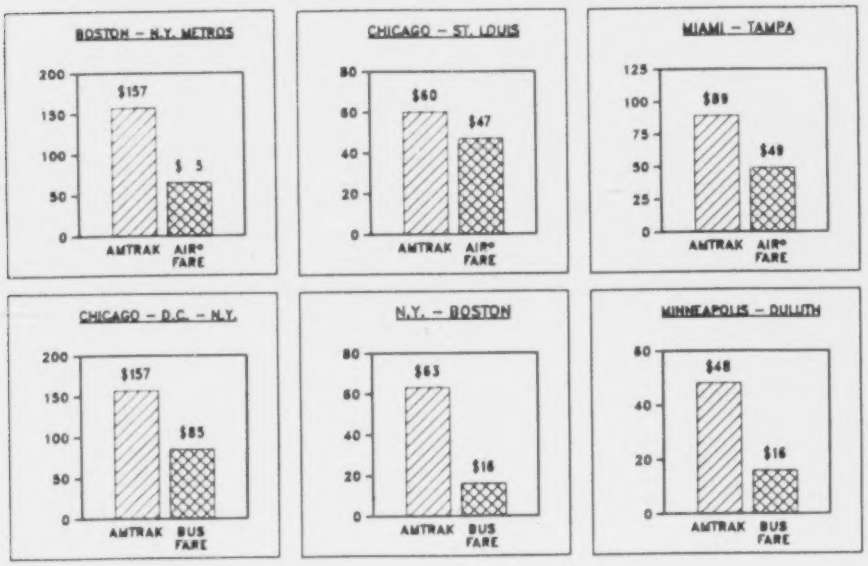
FULLY ALLOCATED LOSS AVOIDABLE PROFIT LOSS

AVOIDABLE (PROFIT) LOSS VS. FULLY ALLOCATED LOSS
($ MILLIONS)



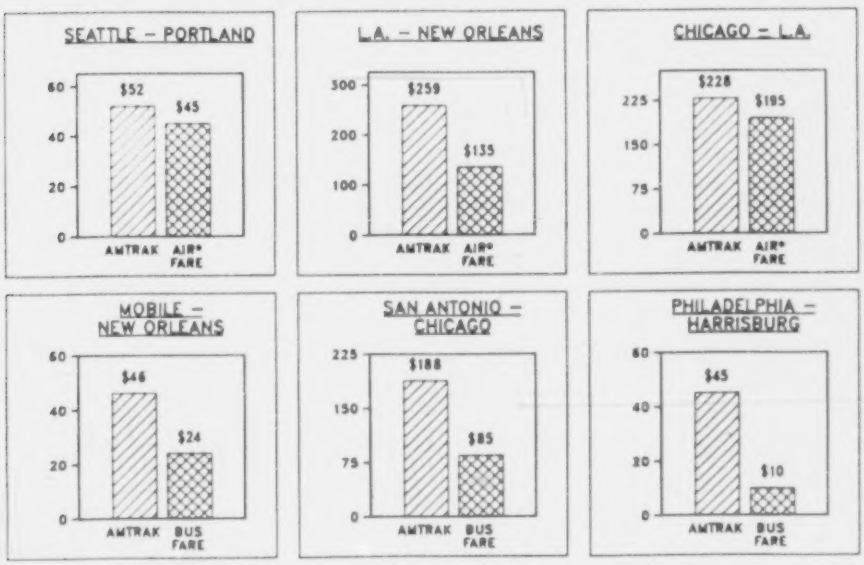
FULLY ALLOCATED LOSS AVOIDABLE PROFIT LOSS

AMTRAK COST PER PASSENGER VS. AIR OR BUS TICKET PRICE



* LOWEST UNRESTRICTED AIR FARE

AMTRAK COST PER PASSENGER VS. AIR OR BUS TICKET PRICE



* LOWEST UNRESTRICTED AIR FARE

III. AMTRAK COMPARES POORLY TO BUSES AND PLANES

Buses and Airlines Serve More Communities and People With More Frequency

- Buses currently serve over 9,800 communities nationwide vs. the 500 serviced by Amtrak. Further, bus service frequency is much higher than Amtrak service frequency. Very few cities outside the Northeast Corridor have more than one Amtrak round trip per day and many have less. This is shown in the table on the following page.

- Scheduled airlines, serving about 775 communities in the U.S., move 317 million domestic passengers per year compared with 20 million moved by Amtrak. Likewise, bus traffic dwarfs carriage by Amtrak.

Domestic Intercity Service Comparison-1984

Mode	Passengers Boarded	Communities Served
Bus	362 million	9,800
Air	317 million	775
Amtrak	20 million	500

Private Enterprise Cannot Compete Against Open Ended Subsidies.

- When airlines instituted $19 fares between New York and Boston, Amtrak fares dropped from $38 to $19. On the Chicago-Flint, Michigan route, recent Amtrak price cuts will result in a 30% reduction in bus route revenues, as projected by the local bus company. Yet, Amtrak's cost recovery on this route is only 54%.

- As Amtrak subsidies have continued over the last decade, bus service has declined, particularly on the Northeast Corridor. Elimination of uneconomic rail service should help to stabilize competitive bus service.

Bus Roundtrips per Day

	1971	1984
Total NEC City Pair Schedules	458	248
% Reduction from 1971		46%

Examples of Bus - Amtrak Service by State

State	Number of Communities Served	Mean Frequency of Daily Service at Amtrak Points
Alaska		
Amtrak	0	*
Bus	17	*
Arizona		
Amtrak	8	1
Bus	119	16
California		
Amtrak	37	6
Bus	593	47
Kansas		
Amtrak	7	1
Bus	161	6
Kentucky		
Amtrak	4	1
Bus	147	2
Louisiana		
Amtrak	7	2
Bus	250	17
Michigan		
Amtrak	19	3
Bus	252	34
Missouri		
Amtrak	12	3
Bus	181	15
Nebraska		
Amtrak	5	1
Bus	159	11
New York		
Amtrak	21	7
Bus	590	21
Oregon		
Amtrak	14	3
Bus	184	18
Pennsylvania		
Amtrak	11	2
Bus	414	28
South Carolina		
Amtrak	11	2
Bus	101	11
South Dakota		
Amtrak	0	*
Bus	104	*
Tennessee		
Amtrak	2	1
Bus	150	23
Texas		
Amtrak	17	1
Bus	783	37
Virginia		
Amtrak	16	4
Bus	237	23
Washington		
Amtrak	14	3
Bus	155	12
West Virginia		
Amtrak	10	2
Bus	51	6
Wisconsin		
Amtrak	7	3
Bus	366	16

* Not Applicable.

Nobody Would Be Cut Off From Reasonably Priced, Alternative Intercity Transportation Service if Amtrak Subsidies Were Eliminated: The 79 "Abandoned" Cities Myth.

- Amtrak states that 79 cities currently served by rail would be without bus or air service if Amtrak's subsidy were terminated (for example, 52 would have no bus service, and another 29 would have neither bus or air service). Yet, many of the communities cited by Amtrak are within a few miles of cities with plenty of alternative transportation:

  - 60% of the 79 communities are within 10 miles of a bus station, and 90% of these communities are within 20 miles of a bus station.

  - Most of these communities are not located in isolated areas. One-half of them are within 30 miles of a Metropolitan Statistical Area, defined as having a population of 250,000 or more. Two-thirds are within 60 miles of a Metropolitan Statistical Area.

  - In fact, only 3 communities, each with a population of under 3,000, would be more than 30 miles from alternative transportation if Amtrak service were discontinued.

- Of the 10 cities named by Amtrak with populations above 25,000, almost all, including Gaithersburg, MD.; Metro Park, N.J.; Alton, IL.; Glenview, IL.; and Overbrook, PA., are suburbs of large cities with plenty of alternative transportation.

- Amtrak even cites Rockville, MD., served by the Washington, D.C. subway -- a system into which the Federal Government has already contributed over $4.1 billion in construction subsidies.

Distance to Bus Transportation from Amtrak's 79 "Abandoned" Communities		
Distance in Miles	% of Communities	Number of Communities
Less than 10	60	47
10-20	30	24
20-30	6	5
More than 30	4	3
Total	100	79

- Further, the President of the American Bus Association has pledged in testimony before Congress that no community currently served by Amtrak would be left without bus service if Amtrak ceased to operate.

IV. EVEN AMTRAK'S NORTHEAST CORRIDOR SERVICE IS NOT CRITICAL

Many Northeast Corridor (NE) Routes Could Be Terminated Relatively Painlessly.

- Certain NE Corridor routes provide marginal transportation service in addition to their poor financial performance. For example, the Boston-New York Metroliners carried an average of 119 passengers per day in 1984. Even the conventional Boston-New York trains only carried 218 passengers per day. Only 698 passengers per day travel on Amtrak between New Haven and Springfield and 798 between New York and Harrisburg. (This compares to 17,500 per day traveling on the New York to Washington, D. C. segment).

- Many NE Corridor passengers are actually riding on commuter trains that Amtrak is required to operate without repayment from local commuter authorities. These include routes with many intermediate stops between New York-Philadelphia, Philadelphia-Harrisburg, and New York-Harrisburg. These special commuter routes account for almost 10% of the passenger miles traveled on the Corridor.

- Because of the availability of alternative service modes, passenger disruption is likely to be minimal. Bus companies would pick up much of the service -- in fact, termination of Amtrak would probably stimulate new charter bus companies serving commuters to enter the market. Other travelers would turn to auto and air.

- According to Amtrak surveys, only 7% of weekday conventional train travelers would actually stay home if Amtrak were not available.

Amtrak Survey Results of Passenger Non-Amtrak Service Choice			
Choice of Mode	Metroliner Passengers	Conventional Train Passengers weekday	weekend
Bus	12%	37%	33%
Auto	34	23	35
Plane	44	33	22
Stay Home	10	7	10
Total	100%	100%	100%

- According to the New York Metropolitan Transportation Council, there are at least 3 million people per day entering Manhattan by motor vehicle. Even if all Amtrak passengers who disembarked in New York last year switched to bus, auto or plane, that would mean approximately an additional 8,000 non-rail passengers per day entering Manhattan. This is an increase of only one quarter of one percent, hardly an amount to cause major disruption or concern.

Much Northeast Corridor Traffic is Short Haul

- Although some like to paint a picture of 17,500 passengers a day (Amtrak's Washington-New York segment traffic) flooding National and La Guardia airports if Amtrak service were terminated, this is simply not the case.

- In fact, direct travel between New York and Washington accounted for only about 12% of NE Corridor passengers in 1984. Shorter routes, such as Philadelphia-New York, account for a much higher percentage of passengers, and it is on these routes that passengers will turn to buses, auto, and commuter trains, rather than air planes.

1984 City Pair NE Corridor Ridership	
City Pairs	% Ridership
New York-Philadelphia	23%
Washington-Philadelphia	9
Baltimore-Philadelphia	2
New York-Washington	12
New York-Boston	4
Boston-Washington	1
Boston-Philadelphia	1
Baltimore-New York	5
All Other*	43
Total	100%

*Includes commuter and short haul trips.

- The short haul travelers, scattered throughout several cities and states on the Corridor, are unlikely to bring traffic to a standstill as they switch to auto, bus, and commuter trains.

There is Sufficient Capacity Available on the Northeast Corridor to Provide Needed Service Even Without Amtrak

- More than 40% of airline seats on the Boston-New York-Washington Corridor are unoccupied on an average annual basis. There are at least 21,000 airline seats daily that go unfilled.
- From surplus equipment, bus companies could add at least 13,000 seats immediately on the Corridor. Further, new bus companies could meet increased demand -- the cost of entry into the bus market is relatively low (used buses cost $50,000, new buses cost $170,000).

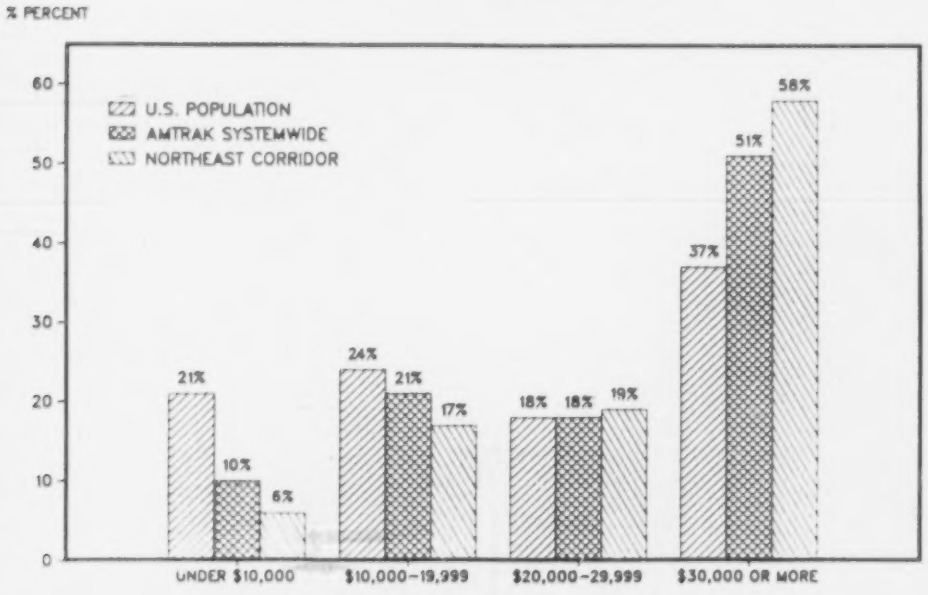
Termination of Amtrak Will Give Private Enterprise an Opportunity on the Northeast Corridor

- As long as Amtrak exists, there is no chance that a private company would establish profitable rail passenger service on the Northeast Corridor.
- Yet, the Corridor is the highest density, most highly utilized rail corridor in the country. If there is any possibility that rail passenger service could be operated profitably, certainly the Northeast Corridor is the most likely location.
- Without Amtrak, private enterprise would be given the opportunity to compete on a fair basis with other modes to provide service where there is sufficient demand.
- The Federal Government should not continue to subsidize Amtrak at the expense of existing and future privately funded transportation companies.

V. AMTRAK IS A MIDDLE-TO-UPPER-INCOME SUBSIDY

- The income distribution of Amtrak passengers tends to be higher than the population as a whole. The highest-income passengers patronize the Northeast Corridor and short distance trains in numbers far greater than their representation in the general population.
- When inflated to 1985 levels, 58% of Northeast Corridor riders have incomes above $30,000, compared to 37% in the general population, as shown in the chart "Income Distribution of Amtrak Passengers" on page 26. Systemwide, 51% of Amtrak passengers have incomes over $30,000 at 1985 levels.
- 41 percent of the Northeast Corridor passengers are on business travel or commuting to work.
- Yet in 1984 the Federal loss in the Northeast Corridor was $24.17 per passenger.
- At the other end of the scale, only 23% of Northeast Corridor passengers and 31% of passengers systemwide have a 1985 income under $20,000, compared to 45% of the general population.
- Bus passengers, rather than rail, have the lowest median incomes and include more of the youngest and oldest age groups. 48% of all Amtrak passengers are between the ages of 25 and 44 -- in their peak earning years and least in need of subsidized transportation.

INCOME DISTRIBUTION OF AMTRAK PASSENGERS (1985 PROJECTED)



VI. LABOR PROTECTION: THE RED HERRING OF SUBSIDY TERMINATION

Labor Protection is Not a Federal Liability

- Amtrak is an independent corporation that entered into a labor agreement providing up to 6 years full salary for employees who are furloughed. The 1986-1991 liability could be roughly $2.1 billion.

- These payments are an Amtrak, not a U.S. Government, liability. If subsidy termination resulted in an Amtrak bankruptcy, labor protection costs would be funded out of the court-supervised liquidation of assets, in full or in part.

- Several court cases have resulted in rulings that Amtrak is not a government agency. Most recently, the Supreme Court issued an opinion in National Railroad Passenger Corporation v. Atchison, Topeka, and Santa Fe Railway Company that the Federal Government is not liable for Amtrak's contracts.

- The book value of Amtrak assets is about $3.6 billion.

	Millions $
Rolling stock	$ 1,400
Real Estate (outside NEC)	200
Northeast Corridor Properties	2,000
Total	$ 3,600

- It is impossible to estimate precisely how much these assets would be worth if sold. Amtrak believes it would be far less than the $2.1 billion labor protection liability, leading to employee lawsuits against the Federal Government. We do not necessarily concur.

  - Rolling Stock. Canadian passenger rail (now under expansion) and Alaska Railroad might conceivably buy passenger equipment. Canada is currently planning to purchase 90 locomotives and 200 transcontinental cars similar to those now owned by Amtrak, for up to $600 million.

  - Real Estate. Includes many valuable parcels of property including Penn station in Manhattan, 30th Street Station in Philadelphia, and the right-of-way along the NEC (could be used for additional fiber optics right-of-way, pipelines, air rights, and other purposes). Also, freight railroads could be interested in purchasing right-of-way giving access into New York City.

  - Facilities. Includes modern maintenance shop at Beech Grove, Indiana, and several maintenance facilities along the NEC which are of interest to freight railroads.

The Only Way to Solve the Amtrak Waste Problem is Through Court Liquidation of Assets.

- Amtrak is tied to a wasteful route structure and excessive costs. The existing company simply cannot be reformed sufficiently to free it of massive federal subsidy.

- However, bankruptcy would allow a court-supervised restructuring of intercity rail passenger service.

- Assets would be recycled into prouuctive economic use. The court would see to the labor protection payments. Northeast Corridor users would have the opportunity to tailor efficient, cost effective service.

- Without total subsidy termination and the opportunities offered through liquidation of Amtrak's assets, the Federal Government will continue to pour billions of dollars more into the Amtrak mobile money burning machine.

VII. DO OTHER TRANSPORTATION MODES RECEIVE SIMILAR SUBSIDIES?

Comparative Subsidy: Amtrak's is the Largest

- It has been claimed that all transportation modes receive Federal subsidies. For example, it is alleged that roads and airports receive more Federal funds than Amtrak receives.

- However, these arguments make little sense. Users of roads and airports pay user taxes that support their use:

  - Airports. Airline passengers pay an 8% ticket tax and $3 international departure tax.

  - Highways. Highway users pay a 9 cent per gallon gas tax as well as other road taxes.

- The 1986 Budget proposes that highway and airport users pay 100% of their proper cost allocations.

- In 1982, the Congressional Budget Office concluded that Amtrak's subsidy was by far the largest:

Estimated Subsidy by Mode (in cents per passenger mile)	
Amtrak	23.6
Commercial Aviation	0.2
Auto	0.1
Bus	0.1

The "Business Expense Deduction" is not a Valid Measure of Federal Transportation Subsidies.

- It has been alleged that airlines receive an "indirect Federal subsidy" of $33 per passenger vs. $3 per passenger for Amtrak, because a higher percentage of airline revenues are from business travelers whose companies deduct a portion of the ticket price from their taxes.

- This line of reasoning is faulty for many reasons:

  - In the first place, every business benefits from the business expense tax deduction. However, the benefits accrue to the business taking the deduction, not to the company providing the deductible service.

  - Further, a business that chooses to send its employees on Amtrak, rather than by air, is entitled to the same business deduction. Therefore, if Amtrak's reasoning were correct, rail business travelers are doubly subsidized--once because the government is directly subsidizing the ticket price, and twice when the business then deducts the price of the subsidized ticket as a business expense. (Note: Amtrak's Federal subsidy would increase by $3 per ticket if business tax deductibility were added.)

  - In addition, the $33 per airline passenger figure assumes that all businesses sending employees by air pay taxes at the maximum corporate rate of 46%. This assumption overstates the benefits realized by these businesses, and therefore overstates the subsidy.

  - The Administration did not add business deductions to its estimates of the level of Federal subsidy of Amtrak.

Senator PACKWOOD. Now, if we will move to Governor Robert Orr.

I might announce again, while the room is clearing out, that we will proceed with the hearing this morning without breaking for lunch. I would ask that Mr. Sherlock testify after Graham Claytor.

Governor, you have been very patient. I appreciate it. Why don't you wait just a moment until those people who are going out clear out.

[Pause.]

Senator PACKWOOD. All right, go right ahead, Governor.

STATEMENT OF HON. ROBERT D. ORR, GOVERNOR OF INDIANA, AND CHAIRMAN, COMMITTEE ON TRANSPORTATION, COMMERCE, AND COMMUNICATIONS, NATIONAL GOVERNORS' ASSOCIATION

Governor ORR. Mr. Chairman, members of the committee, may I recognize three of my former colleagues who have served as Governor, and thank you for the opportunity to appear before you.

I really appear in three different roles: in the first place as Governor of Indiana, where Amtrak is an important transportation element and an important employer; and second, as a presidentially appointed member of the Board of Directors of Amtrak, representing all 50 of the Governors; and last, as chairman of the Transportation, Commerce, and Communications Committee of the National Governors' Association.

It is important that I indicate that my testimony does not necessarily reflect NGA policy or the opinion of the Nation's Governors. It is probably a reasonably accurate reflection of many Governors, perhaps even more than a majority, but in no way do I wish to represent myself as speaking for anyone but myself.

It is unfortunate that the current debate over the budget has singled out Amtrak subsidies for attention. Why Amtrak alone? All modes of passenger transportation are subsidized by Government. Passenger rail service all over the world—Japan, Germany, Australia—is subsidized.

This has always been the case. It has always been sound policy because transportation subsidies bring direct and very visible economic and social benefits. It remains sound policy today.

Massive Government subsidies flow to commercial aviation. Take the air traffic control system as a hugely expensive start, for example. We do not begrudge that and other subsidies because they have given the United States the finest airline system in the world. The total cost of these subsidies is not very visible. Nor are those of intercity bus service, which probably wouldn't exist without direct and indirect subsidies.

Unfortunately, Amtrak's subsidy appears as one line item in the Federal budget and thereby becomes an easy target for criticism. But Amtrak's service is not less useful and is just as much in the Nation's economic and public interest.

Indeed, it's a shame that Amtrak collects all manner of negative comment from its detractors these days. Some of it is accurate, most of it highly exaggerated. Amtrak is made to appear inefficient, costs going up, ridership descending, beset with problems. In-

stead, month after month, year after year Amtrak operations, service and equipment improve.

It's too bad that some other agencies and functions supported by the Government are not equaling Amtrak's steadily improving performance. Budget control would be a more plausible goal if they were.

But, on this point, a word of warning from a director. The current debate over Amtrak's future is serving to discourage Amtrak management at all levels and will eventually undermine the morale of every Amtrak employee. The sooner a positive decision on Amtrak's future can be made, the better will be the company's current operational performance.

It seems to me it is important to mention that month after month and year after year that Amtrak's operations, its service and equipment improve. I have been a member of Amtrak's Board since the spring of 1982, and I began that service as something of a skeptic about Amtrak. Today I am a believer.

I have seen first hand the tremendous strides that have been made by Amtrak management under both Alan Boyd and Graham Claytor in upgrading the quality and efficiency of its service. My time on the Board parallels that of Graham Claytor as President. His management style strongly emphasizes productivity and positive results, and I have witnessed the successful results of his leadership.

The Amtrak management he has gathered and inspired should be applauded, for it has improved the Corporation's financial performance while reequipping its fleet and providing a much higher quality of service. It is too bad that some other agencies and functions supported by the Government are not equaling Amtrak's steadily improving performance. I believe we would have better budget control if that were the case.

But, I do believe it is important for me to speak one word of warning as a Director, and that is that the current debate over Amtrak's future is serving to discourage Amtrak management at all levels and will eventually undermine the morale of every Amtrak employee. So that the sooner a positive decision on Amtrak's future can be made, the better will be the company's current operational performance, presuming it is something we wish to continue.

My testimony from here on results from my serving as a part of the National Governors' Association and the chairman of its Transportation Committee, and it also stems from my service as a Director, and a suggestion which I will make at the end which seems to me to make good business sense.

Last week I heard suggestions to the effect that the loss of Federal support for Amtrak could be replaced by subsidies from the States. This notion is best described as a happy dream. There is no way that the States could do more than supply modest subsidies. Even that would not be very practical.

There are several reasons why this is so. First, it is an absolute myth that States are accumulating huge surpluses. All but a handful are finally getting to the place where working balances are actually adequate to meet cash flow needs. As revenues have improved, deferred maintenance and delayed capital projects put on

the shelf during the recession of 1981-83 are now belatedly being undertaken.

Programs in mental health, corrections, and education are finally being expanded significantly. Indiana, for example, will end fiscal year 1987 with an estimated working balance or surplus of $54 million. That is barely sufficient to sustain the cash flow needs of a $7 billion annual budget.

My second point is that the States no longer have enough time in this year to consider providing subsidy funding, even if it were sound policy for them to do so. Legislative appropriation would generally be required, and most legislatures will not be meeting during the months in which such a proposal would be implemented.

It is unreasonable to think that a restructuring of this complexity could take place by the onset of the new fiscal year, October 1 of this calendar year. I emphasize restructuring, because participating States would insist upon some level of control over the Corporation's management.

My third point is that one effect would be the balkanization of the national rail system if many individual States were to become more involved. Efficiency would be reduced. Connecting traffic would decline. Decisionmaking would be slowed. The system's future always would be in doubt. Management would face an impossible tugging and pulling of interests and priorities.

Congress labored for years to "de-politicize" decisions about Amtrak routes, schedules, and real estate operations. That pattern would reverse under this proposal.

Fourth, it would be difficult to secure agreement among the States on routes and on scheduling. When the National Limited was discontinued in 1980, for example, several States along its St. Louis to Washington route considered use of the 403(b) subsidy provision to preserve this train. They soon learned of the problem in devising an acceptable schedule that optimizes end-point arrivals, departures, and connections, while offering acceptable arrivals and departures at intermediate points.

This effort collapsed when it became apparent that major intermediate markets, such as Columbus and Pittsburgh, were doomed to service in the predawn hours. I do not think it is reasonable to expect the States to finance passenger trains that stop in their largest cities at 3 a.m. Yet these trains incur significant operating costs while running through States even when no stops are made. This situation would create a problem for every long-haul train in Amtrak's system.

My fifth point is that several trains would no doubt be discontinued under State subsidy, and their demise would have an adverse domino effect upon the remainder of the system. Amtrak's management is wisely committed to building connecting traffic at its hub cities, just as airlines do. The discontinuance of one train deprives the remaining trains of its connecting traffic. Each discontinued train would increasingly jeopardize the remaining system, by cutting ridership and increasing the cost per remaining passenger.

Last, the issue of labor protection would be a major stumbling block. Given the precariousness of a new system under State control, labor protection is of more than academic interest. I cannot

conceive that the States would incur the obligation to sustain a national rail passenger system with more than $2 billion in labor protection liability lurking in the background.

Is the Federal Government prepared to indemnify the States against this liability, for example? This would be an essential condition, but I doubt that Congress would meet it, because it is cheaper to continue Amtrak in its present form than to accept that liability.

What I have just described is sufficient to establish that a decision to shove this issue off on the States may really be only another device to kill off America's rail passenger service.

Furthermore, Amtrak makes sense because it is a national system. It is an appropriate national responsibility. I do not hear suggestions that the Federal aviation apparatus be dismantled and the air traffic control system turned over to the States. Yet the logic is no different.

Now, for my second major point, let me say that it is poor practice for me to take a position contrary to the Reagan administration on a matter like this without offering positive alternatives. My suggestion to Congress is to challenge Amtrak management to develop proposals which over time can continue to reduce the reliance on congressional appropriation for operating expenses.

Additionally, management should be asked to set into motion a process for financing its intermediate and its long-term capital needs from alternative sources of income. Ask these people to put together their own plan. Urge on them an attitude of genuine innovation, to act as if Amtrak's survival and success would result only from management ingenuity. That is what we would be doing if it were totally a private company.

I believe that Amtrak's management already is in a position to offer proposals which would provide meaningful reductions in its requirements for operating assistance. Through private sector partnerships associated with real estate holdings, cogeneration of electric power, and station facilities, to name only a few, funds can be raised to meet Amtrak's capital needs.

As a result of this process, some new or modified fiscal and organizational structure may result, but Amtrak will survive and achieve successful results. Give Amtrak management a chance to show its entrepreurial spirit, to build upon the creativity and ingenuity which now exists within the Corporation.

To create a workable plan may take far longer than the end of this fiscal year, but surely a stay of execution while the company is given the opportunity to forge its own destiny may be the best of all solutions. Work out appropriate minimum goals for Amtrak management to achieve by yearend. Plan and execute a 5-year reduction program.

Perhaps Congress should require the Federal Railroad Administration to join with Amtrak on such an analysis. Together, Amtrak and FRA could be given a year to present a workable proposal on passenger rail service with hoped for substantial reductions in Federal subsidy.

What worries me is that we are about to abandon a system which has taken a great many dollars, millions, billions of dollars, to put into place, and totally throw it out. That does not make

sense to me. If this were a business decision that were being made, we would ask for the kind of recommendations to come from the management of the company that I am suggesting.

Because Amtrak is proving its value as a national service transportation system and its management has demonstrated that it can improve efficiency and service, that it is a sound transportation option within a total transportation system, it is a force for aiding the rebuilding of our central cities. In times of national emergency, it can augment our defense transportation capability.

Doing away with Amtrak is false economy, for it would involve the writing off of billions of dollars of capital investment already made, incurring billions of dollars of new liabilities in labor protection, and triggering expensive new investments in alternative modes.

Surely American genius can find a solution for Amtrak in tune with America's style, and I believe the Congress could trigger such a result by setting an example of creative action starting with a positive recommendation to Amtrak management and the Federal Railroad Administration to develop a workable blueprint for Amtrak's future.

I thank you for the opportunity to provide that testimony.

Senator PACKWOOD. Governor, thank you. I have no questions.

Senator Rockefeller.

Senator ROCKEFELLER. I have no questions, Mr. Chairman. I just want to recall that Governor Orr is a long-time good friend, and I have never sat on this side of the bench, or whatever we call it, looking at a former Governor, and it reminds me of the many times that you and I came up here together to fight for things for the National Governors Association. And I am just proud to see you here fighting for something that I agree with and you on, and doing it so effectively on behalf of the governors.

Governor ORR. Thank you, Governor Rockefeller.

Senator PACKWOOD. Senator Long.

Senator LONG. I have no questions. Thank you.

Senator PACKWOOD. Senator Ford.

Senator FORD. Thank you, Mr. Chairman.

The Governor is a neighbor of mine. In fact, about 30 miles down the river we have an argument over whether it's the garden spot of the Ohio Valley. It is either Evansville or Owensboro, and we share it, I guess.

Governor Orr, on your item No. 6, the issue of labor protection as a major stumbling block—your first item of item No. 6, you said that you could not conceive of the States being willing to incur that liability. Do you agree with Mr. Stockman today that the Federal Government may not be obligated for that labor protection in case Amtrak is shut down.

Governor ORR. Senator, I believe you indicated earlier that you are not a lawyer, and neither am I. Therefore, I would have to answer through the eyes of a person who leans upon lawyers for their advice and counsel.

It is at best something of a mixed bag as to whether there would be a liability on the part of the Federal Government in the event that Amtrak were totally shut down. Labor protection lies out

there. It seems to me that it is a matter that has to properly be of concern in the national policy standpoint of the Congress.

My point, of course, was if the States were asked to pick up a subsidy—whether a partial or a large chunk of the subsidy—they would have to be concerned about that liability, not only on a total cost basis but also from the standpoint of how abandonment of certain segments might affect the total picture. In other words, if certain States would not be willing to subsidize, undoubtedly those States would lose part or all of the rail service in those States. In that case there would be an additional labor protection problem arising. The States would therefore be somewhat leery, I believe, of undertaking a subsidy responsibility if further loss of service would generate additional labor protection costs and they might have to pick up.

Senator FORD. Thank you, Mr. Chairman.

Senator PACKWOOD. Senator Kassebaum.

Senator KASSEBAUM. Thank you.

I just would like to ask Governor Orr this. I thought your comments or suggestions were interesting. You mentioned management ingenuity. What about labor ingenuity? Because it does seem to me that is part of the problem, perhaps, in the past, that has caused some difficulty as the railroad itself had to adjust.

Governor ORR. That is a very good question. My point in saying turn to management for recommendations suggests that management itself would bring aboard all participants in Amtrak, including labor.

Senator KASSEBAUM. Do you think that is possible?

Governor ORR. I think it is possible; not only possible but highly probable. You will have an opportunity to hear Mr. Claytor shortly. I am confident that he will convey the message to you that he has a very strong working relationship with the unions.

I know of this from my own standpoint in Indiana, because we do have a sizable facility at Beach Grove, IN, employing 1,350 people as part of Amtrak's shops. I have been there and visited with them, and they are anxious to do what they can to be helpful to elongate the period of time that Amtrak would be in existence.

Senator KASSEBAUM. Thank you.

Senator PACKWOOD. Senator Exon.

Senator EXON. Thank you, Mr. Chairman.

Governor, I want to welcome you. I have just one question. Your opening paragraph indicated that you were speaking basically for yourself and as chairman of the National Governors' Association Transportation Committee. Do I take it, then, that the Nation's Governors have not in this year's meeting or last year's meeting taken any official vote on the Amtrak question in particular?

Governor ORR. That is correct, Senator. We have not. It is not something that was felt to be necessary. Perhaps we should have.

I am certain that at the summer meeting, which will be taking place in Idaho, this will be a matter of discussion, because it is now that much more strongly before us. We did not discuss it here in February at the midwinter meeting.

Senator EXON. My recollection is, Governor, that the Nation's Governors generally have quite strongly supported the Amtrak as

a necessary addition to our overall passenger transportation system, is that correct?

Governor ORR. I think that is a safe assumption. Having served as chairman of the Transportation Committee now for 3 years, I think most governors imply support, even if we have not recently addressed it as part of our National Governors Association policy considerations.

Senator EXON. Thank you, Governor Orr.

Thank you, Mr. Chairman.

Senator PACKWOOD. Are there other questions of the Governor? Senator Danforth.

The CHAIRMAN. Governor, Amtrak was established 14 years ago, and the hope was that it would turn the corner and become a profitmaking operation. I have been on this committee now for 8 years and it has been a constant issue during those 8 years.

Every year we raise the question of the extent to which it should be cut back. Every year we are told that Amtrak management should be exhorted to turn the corner and to reduce the size of the subsidy and make Amtrak a profitmaking operation.

Do you have any ideas as to how long we should continue this exhortation? It would seem to me that 14 years, if not enough, should be pushing the upper reaches of our patience.

Governor ORR. Senator Danforth, you asked me a somewhat similar question when I was before the committee for confirmation, and I answered you by saying that it was part of my obligation, I thought, to make sure that the company would be operating on the most efficient basis possible. I attempted to answer that partially in my testimony by saying that I thought the present management had moved mountains in many ways in bringing about a greater degree of efficiency.

I think it was probably an unfortunate characterization at that time that Amtrak would be profitable. Having served in a legislative body myself, I know how easily persuaded people can be that something is going to pay for itself. It should never have been promoted that way, and indeed the rail passenger service of this country was in such a decrepit condition at the time that Amtrak took over rail passenger service that it could under no circumstances have caused the budget to be balanced for rail passenger service very promptly, and the chances are that it would never be fully balanced.

But it can be brought into a closer level of balance, in my opinion, and that is my suggestion. Never before, I believe, has Congress said to the management, as would the stockholders in a company: We will not put up any longer with the degree of subsidy that we have to provide; it is now up to you to figure out how to make this thing work.

That is more or less what Congress said to the Chrysler Corp. a few years ago, and admittedly that is different. But nonetheless, they did figure out a way, in a rather dramatic fashion. And the State of Indiana participated in that as a matter of fact, and they still owe us $32 million, which we have decided to allow them to keep because it returns good interest to the State of Indiana.

The point I am making is that there can be miracles worked when people have the point made to them that it is your determi-

nation, your will, to dig yourself out, and give them ample time to be able to come up with that kind of a conclusion.

The CHAIRMAN. Thirty-four States have now passed resolutions for the convening of a Constitutional Convention for a balanced budget amendment.

Governor ORR. Including Indiana, sir.

The CHAIRMAN. Yes; Indiana is one of them. I take it that most of those 34 State legislatures would not want us to terminate revenue sharing or cut back on the UDAG Program or Community Development Block Grant Programs. I wonder if they could provide some suggestions as to what we should do about the size of the deficit. It is going to be a herculean task to reduce it by $50 billion, much less $250 billion, which would be a balanced budget proposal.

Governor ORR. Indeed, the National Governors' Association has risen to this challenge. There have been strong efforts made to recommend means by which we could attain closer to a balanced budget. This has been subject to our discussions at the last three or four meetings of the National Governors' Association in Washington in its February meeting.

There is a willingness on the part of the Governors to share our ability to assist in the balancing of the budget process with that of the Congress.

The CHAIRMAN. But do not eliminate Amtrak?

Governor ORR. No; I did not say that specifically. I said let the Amtrak management determine whether or not there is a means by which we can so significantly reduce the subsidy that it would be one which would cause it to be favorably looked upon, even by this administration, as well as by the Congress.

I think it is possible, and I certainly think it ought to be looked at and the determination reached on that basis before it is abandoned. Those of us who have had anything to do in the private business world with a bankruptcy know that that is a very difficult way in which to reorganize anything.

Senator PACKWOOD. Are there further questions?

Senator EXON. Yes, one quick question.

Governor Orr, as a member of the Board of Directors of Amtrak and recognizing the fact that we have some tough choices up here and that we are going to have to make some reductions, has there been discussion among the Board members—and I can ask this question of Mr. Claytor—as to how much, if any, could be made in reductions from the amount requested for fiscal 1986?

Governor ORR. Only very preliminary discussions, Senator. I made this same recommendation to the House committee last week, to Congressman Florio's subcommittee. Subsequent to that, the following day we had a Board meeting and there was some discussion of it at the time, and an indication on the part of members of the Board that were involved in the discussion that it made sense.

It was at that time that the idea of adding the Federal Railroad Administration's knowledge of the whole situation to join in it seemed to us to make sense. We had not had discussions with the Federal Railroad Administration on the subject, although a member of the FRA is a member of our Board and he was present for these discussions.

Senator EXON. Thank you.

Senator PACKWOOD. Are there any other questions?

[No response.]

Senator PACKWOOD. If not, Governor, thank you very much for coming here this morning.

Governor ORR. Thank you very much, gentlemen.

Senator PACKWOOD. Next we will hear from Graham Claytor, the President of Amtrak.

Good morning.

STATEMENT OF GRAHAM CLAYTOR, PRESIDENT, AMTRAK

Mr. CLAYTOR. Good morning, Mr. Chairman.

Senator PACKWOOD. Your entire statement will be in the record.

Mr. CLAYTOR. It is a pleasure and privilege for me to appear here before this important committee today to discuss this most critical issue that Amtrak has faced in the almost 3 years that I have been with it, and in fact the most critical issue since it was organized almost 14 years ago—the life-or-death question of whether it should be given the opportunity to continue to improve both its service and financial performance or whether it should now be terminated and scrapped.

I will not attempt at this time to summarize it. The main points that were made by Mr. Florio, Senator Weicker, and Governor Orr have covered a major part of what I wanted to discuss, and I thought I would like in my preliminary statement to discuss a few of the points that Mr. Stockman made.

But first I would like to refer to what Governor Orr has just said. Some people, when Amtrak was first formed, and I was on the outside in the railroad business looking at it at the time, some people suggested that if they could just form a new company to run the passenger business it would be profitable.

Those of us who were in the passenger business as freight railroaders knew that that was not possible, and I do not think it will ever be possible. No civilized country in the world can operate an intercity passenger service and break even, because the indirect subsidies that are given to all the other forms of transportation are such that you cannot charge enough to do it.

Now, I think that is true in this country, as it is true in Great Britain, Germany, France, and Japan. Each of these other countries spends pretty close to $1 billion a year and some of them $2 or $3 billion a year to subsidize their passenger business.

Amtrak has been steadily improving in both the quality of our service and in the amount of cost. The 1985 appropriation and the appropriation which we request, for 1986, is the lowest we have had since 1977. I intend to continue to push that down. I think there are ways and means of doing this.

For example, labor was mentioned. Two years ago we executed with the operating unions covering our employees operating on the Northeast corridor a new agreement that, when fully implemented as it will be in another year, will save us $20 million a year on the Northeast corridor, eliminates all mileage payments for operating employees, puts them on a standard 40-hour week, 8-hour day, time

and a half for overtime basis, and is the only such agreement that I know of in the entire railroad industry.

We were moving to do the same thing with our operating employees that work for the railroads with whom we contract for off-corridor operations. But when the budget crisis came up we had to postpone that action because we would be asking people to come and work for Amtrak instead of working for other railroads, and as long as we are under this kind of gun that would not be feasible.

But there are a number of things that we can do and will do and plan to do to continue to decrease our subsidy, including, as Governor Orr mentioned, the development of more income from the use of our right-of-way by other than railroad uses, such as fiber optics communications, the development of some of the property air rights over our yards in the major terminals in the Northeast, and the like. All of that is ongoing.

I think we can do a lot, but I do not want to leave the impression with this committee that we can break even. I do not think it can be done ever, unless and until there is the total elimination of all indirect subsidies to air and bus transportation. I do not think that is in the cards. I do not think it will happen.

And without that, there is no way a rail passenger service can break even. But we can do better and we will.

Now, one of the things I want to do at the start is to say that I found some points about which Mr. Stockman and I are in agreement. We are in agreement, indeed, that because of labor protection it is not possible to reduce our budget by say 30 percent, which I believe the Senate Budget Committee at one time suggested, because when we accept in 1 year a budget cut of that degree the only way we can meet it is by discontinuing service.

If you discontinue service, you incur this labor protection. With the labor protection costs as a new liability, those costs eat up between 80 and 90 percent of the savings resulting from taking the train off. And as he put it—it was my phrase that I have used before—we are in a catch-22 situation.

So it is not possible for us to reduce significantly the service at one time and in one way like this, unless Congress wants to pick up the labor protection costs. Now, let us talk about that a little bit, too.

Mr. Stockman indicated, I thought, that this was a voluntary agreement that Amtrak made with the unions and therefore it is all our own problem. There is a little more to it than that. Congress in the Rail Passenger Services Act required as a condition of Amtrak's creation that we had to reach agreement with the unions on reasonable protection for anyone who might lose his job as a result of the discontinuance of passenger service. And if we could not reach agreement, if we and the railroads who also had the same requirement could not reach agreement, the Secretary of Labor should set the terms.

Well, no such agreement was reached, which is the usual situation where that kind of thing is set up, and the Secretary of Labor set the terms. That having been done, the parties did go ahead and agree on those terms, which were basically set by the Federal Government. The terms were 6 years of full pay for anyone who had as

much as 6 years of seniority if he lost his job as a result of discontinuance of passenger service.

Now, the question then arises, what happens? Mr. Stockman is absolutely right, if we have either a zero appropriation or such a large reduction that we have to start reducing service to meet it, Amtrak would necessarily be insolvent. We would have to stop all service. That would trigger the $2.1 billion of labor protection. We would be in bankruptcy.

The trustee in bankruptcy would then take over the property and try to liquidate it, and I think it is absolutely correct that the total amount that could be realized in cash from Amtrak's properties is on the order of 10 to 15 percent of the $3 billion that the Government has invested in our capital.

The residue would just not be paid to the creditors, unless the Federal Government picks it up. I would not expect the Federal Government to voluntarily pick it up. There is an opinion by the General Accounting Office that, while the issue is uncertain, I think is the way they put it, they believe it more likely than not that the Government could successfully defend a suit.

We have asked a law firm experienced in this area to respond to that opinion and let us have an opinion as to whether they agree. That opinion by Covington & Burling is to the effect that, yes, there is a serious question and it cannot be certain whether the Government would be liable or not. Their view is it is more likely than not that the Government would be liable.

The reason is that the Government has imposed the conditions as a requirement and then has triggered the liability by putting Amtrak, its wholly owned subsidiary, out of business, and under those circumstances they think it is likely that a court would hold that the Government is responsible for the labor protection.

Mr. Chairman, I would like to submit a copy of that opinion for the record.

Senator PACKWOOD. Without objection.

Mr. CLAYTOR. My view is we do not know what the answer is, but there is a serious legal question and there will invariably be litigation against the Government if this goes forward.

Now, the main point that runs through all of Mr. Stockman's argument is that Amtrak is insignificant and so insignificant that, we should forget it, one-quarter of 1 percent of the total of transportation of passengers between cities.

That percentage, of course, depends on what base you use. The bigger the base, the smaller the percentage. And by including all travel by private automobile, as well as all travel by commuters, say from Baltimore to Washington or from Rockville to Washington in it, the percentage gets very, very low. It sounds insignificant.

But Amtrak is not insignificant. For example, we carry 20 million passengers a year. That is more than any except the four largest airlines carry. The four airlines that are larger than we are are United, Eastern, American, and Delta. We are larger than TWA, than Republic, or U.S. Air, or any of the others. Greyhound carries more people than we do, but we carry more than Trailways.

So we are the sixth largest transporter of passengers, intercity passengers, in the United States.

There are some other things here, too. In the Northeast corridor, the 17,500 people that we carry between Washington, New York, and intermediate stations is 46 percent more than the airlines carry between those points. It will be a disaster if that disappears. Those 17,500 people mostly are going to Washington and New York. They are on mostly business.

They will be going by air, and the airport capability in New York and to a lesser extent in Washington just will not handle it without more.

He mentioned that La Guardia Airport takes 25,000 people a day, I believe he said, that most of the whole Northeast corridor has only 29,000. I think that is an interesting point; 29,000 people will not have any way to go. Of that 29,000, we have figured out that pretty close to 17,000 of them are going into and out of New York City. They are coming from the South, from the East, and down from Albany to the North.

If you add 17,000 people to the air group going into New York every day, La Guardia obviously could not handle it. They only handle 25,000 now. It is going to be an incredible problem.

And the statement that we have lots of empty airline seats and empty bus seats is not going to help you, because the seats are not there between the right places and at the right times. You are going to have to create a whole potful of new commuter airlines to go from Washington, Baltimore, and Wilmington into New York and into Washington; 2,700 people a day travel Amtrak all the way from New York to Washington. That 2,700 people are all going to fly if Amtrak is not there. That would require 1 million more passengers in National every year. It would take something like 38 flights a day to handle that.

So this is a very severe problem, and the point that I think I want to make most is that the cost to the Government of putting Amtrak out of business in the way that is proposed here would end up imposing on all the taxpayers, including Federal taxpayers, I think more than you are going to save.

For example, the commuters, the 83,000 that go into and out of New York and Newark every day and the 50,000 in Philadelphia every day over our tracks but using the equipment of the local commuter agencies, that could not run without putting up all the money to maintain the entire corridor. That is the kind of problem that I foresee.

Now, Mr. Chairman, Mr. Stockman and I disagree, really, on the judgment factor. He says Amtrak is the bottom of the pile, it is the thing that ought to go first. I think that is a judgment that I have to ask this committee and the Members of Congress to decide. I do not think that is right.

The corridor problem is the one which would create immediate crisis if we disappeared. There would not be that kind of crisis if we disappeared from the rest of the country, but there would be a serious diminution of the quality of life and an awful lot of people in an awful lot of small cities would be very hard put.

There are 120 communities that we serve that do not have any air service within 30 to 50 miles. There would be 161 if the subsidy is canceled for the local air services. There are around 50 that do not have bus service. And he says there are buses within 10 to 20

miles. I do not consider that a bus stop within 20 miles of a small town is service to that town. All of those communities are going to be in very bad shape, and they are mostly in the most sparsely settled regions of the Middle West and the Northwest.

The idea that we are putting the buses out of business I think has been refuted in several ways. Governor Orr mentioned it. A gentleman testified before Mr. Florio's committee the other day from New Mexico. He is a member of the New Mexico Department of Transportation. He said that the bus service in New Mexico had been reduced in the last 3 years by a significant percentage, and that none of the bus routes that were taken off were parallel to the Amtrak line that ran through New Mexico.

I think this is the wave of the future, and primarily it is the very low-fare air competition that is putting the buses out of the intercity business over long distances.

Mr. Chairman, I see that my time is up. I would be happy to answer your questions. I just wanted to hit a few highlights.

Could I ask to submit a reply to Mr. Stockman's document which he filed this morning, because the one that was circulated last week had a number of significant errors in it. I have not had a chance to look at this. I would like to be able to file a reply for the record.[1]

Senator PACKWOOD. Absolutely.

Mr. CLAYTOR. Thank you.

Senator PACKWOOD. On labor protection, does the $2.1 billion figure assume full labor protection for 6 years for all 25,000 employees?

Mr. CLAYTOR. No, sir.

Senator PACKWOOD. What does it assume?

Mr. CLAYTOR. It is based upon the experience we have actually had over the 14 years with labor protection. The maximum potential labor protection would be on the order of about $5.5 billion. What we did was, on the basis of our experience, was to conclude that about 80 percent of the maximum occurs the first year. The next year it drops to 60 percent, then to 40 percent, and then down. The last year is only 10 percent. So that is a realistic figure on the basis of experience. It is not the potential.

Senator PACKWOOD. The next question. In his prepared statement Mr. Stockman says that your assets have a book value—and I understand that book value can be deceptive—of $3.6 billion, of which $2.2 billion are apparently real estate holdings. Is that correct?

Mr. CLAYTOR. Well, if you include real estate, the entire right-of-way of the Northeast corridor, yes. But it is not real estate in the sense that a real estate agent would consider it real estate.

Most of our real estate are in major stations and possible air rights over yards, most of which have not been developed and which are rather expensive to develop, and which we are hoping—I am confident that over the next 20 years we can develop that. But its present market value, considering the fact that those yards have to be used by local commuters as well as by us, so if we are

[1] The reply was received and is in the Committee files.

gone they will still have to be dedicated to railroad service, I do not think they are going to be worth very much.

Senator PACKWOOD. So when he talks about $2 billion worth of Northeast corridor properties, those are not easily marketable properties?

Mr. CLAYTOR. In my opinion, a certain amount would be. Some would be. Some of the air rights, for instance, in one or two of our station areas might be. But we are talking $20, $30, or $40 million. We are not talking anything like a billion or anything like that.

Senator PACKWOOD. OK. My next question is this. In your testimony you say, "if we discontinue the five most expensive trains that we run." What are those five?

Mr. CLAYTOR. They were most expensive because they were longest. In fact, they were all of Florida service, which includes really two trains, each of which split, so there were almost four trains there.

The Florida service, the Empire Builder from Chicago through Minneapolis to Seattle-Portland, the Southwest Limited, which is the old Santa Fe Chief that runs through Kansas City and the Southwest to Los Angeles, and the Amtrak Crescent which runs from New York to New Orleans.

They are the five that have the largest loss, arbitrarily picked. And that is not on the basis of passenger miles. That is just total gross amount.

Senator PACKWOOD. I am intrigued. You talked about the Empire Builder, but not the other Portland train, the Pioneer. It does not lose money?

Mr. CLAYTOR. Not as much. Now, these are not the trains that, if we were in a position to stop five trains or stop that amount, save $101 million, which those trains—if you took those trains off it would nominally enable us to reduce our appropriation $101 million. If we were told to reduce our appropriation $101 million by cuts, they are not necessarily the trains we would take off.

Senator PACKWOOD. No, I understand that.

Mr. CLAYTOR. But the trouble with the $101 million is that when we take those trains off we incur a first year labor liability of $81 million. So it does not get us anywhere. We cannot do anything with that.

Senator PACKWOOD. That is the last question I have.

Mr. CLAYTOR. Yes, sir.

Senator PACKWOOD. $81 million the first year, but I assume that that is gradually reduced over time?

Mr. CLAYTOR. Yes. The total amount that we would pay in labor protection for that I think is about $240 million.

Senator PACKWOOD. Over 6 years.

Mr. CLAYTOR. Over the 6 years, yes.

Senator PACKWOOD. And theoretically save $101 million a year, because you would save that every year by not running it.

Mr. CLAYTOR. That is right, that is correct.

Senator PACKWOOD. Senator Rockefeller.

Senator ROCKEFELLER. No questions, Mr. Chairman.

Senator PACKWOOD. Senator Ford.

Senator FORD. Thank you, Mr. Chairman.

Mr. Claytor, you have triggered into my thinking here a little bit. Did I understand you to say that there are approximately 80,000 commuters daily into and out of New York and Newark and something like 50,000 into and out of Philadelphia that travel over Amtrak tracks?

Mr. CLAYTOR. Yes, sir. It is actually in New York from New Jersey—this is New Jersey only—83,000 trips. That is the way we count it. That means a trip in the morning and a trip back at night; 83,000 trips, single trips to and from New York and Newark and 50,000 trips to and from Philadelphia.

And actually, into Union Station in Washington there are around 6,000, including both from Amtrak and the B&O. But since we own and operate the station, that would shut down, too, so it would stop those as well.

Senator FORD. We are getting into the local commuter situation. If we should terminate the subsidy for Amtrak, is it your view that the States or the communities will be able to pick up those trains that, for example, would transport 166,000 people a day or 83 round trips just from New Jersey to New York City and back, and about 100,000 or 50,000 round trips.

Would they be able to pick that up? It seems as though we have a local problem here. We are looking at the national picture and all of a sudden we are down to a little bit different perspective.

Mr. CLAYTOR. I have made that point before, Senator, and you are right. The problem, what would happen as I view it would be, Amtrak is bankrupt, the trustee in bankruptcy is going to lay off everybody who works for Amtrak who is not necessary, just a cadre of people to preside over the liquidation. Everybody is gone. He is not going to operate anything.

But I assume that he would say to the freight railroads—Conrail, you see, runs a lot of freight over there, too. That would stop.

Senator FORD. It would stop because of maintenance and safety?

Mr. CLAYTOR. Yes, because—well, no, more than that. It would stop because our people run the signaling and dispatching. You cannot run a train at all on a high density main line without dispatchers on duty dispatching the train and setting the signals for them. See, all those guys are gone. We operate the whole railroad.

Now, I am sure the trustee would say to interested parties, including the freight railroads as well as the commuters, it is going to cost you a total of $217 million a year just to run the corridor from New York to Washington and Philadelphia to Harrisburg. So if you all will come up with that figure divided by 12 each month, I will hire the people and keep the railroad going for you.

But I am not going to use the creditors' money to do that for you. They now pay Amtrak rent, a fee for that, which comes jointly for all of them together to $53 million a year. The cost without Amtrak there would be $217 million, because you see Amtrak itself picks up—it's the largest user and picks up a big proportion of these costs.

If you kept running only the commuters and freight for a year, you could undoubtedly reduce this. You would use fewer people, you would take some of the tracks out of service, you would do some other things. But initially you've got to run it just as it is

now, and that's the initial cost. And unless someone comes up with that money, the service is going to stop.

Now, you have got to remember that in addition to the commuters, Conrail uses Amtrak track to serve nearly 200 industries south of New York, including three major automobile plants that have to have rail service every day or the plant shuts down. They have got to—their allocated cost of doing this would be something like $82 million a year just for Conrail. If they divided it in proportion to use, we figure that New Jersey Transit would have to pay about $47 million, Pennsylvania $27 million, Conrail $82 million, and some others a smaller amount.

But my experience in this sort of thing is they will never agree with each other on how much each has to pay. At least it'll take a long, long time before they do. In the meantime, the service is going to stop. I think that's one of the most serious problems we have got here.

Senator FORD. Mr. Chairman, this is a new factor to me. Are we then subsidizing the local communities? Are we subsidizing the automakers here?

Mr. CLAYTOR. No, but you are—well, let me give you some history on this. I can explain it best in that way. When Amtrak took the corridor over, of course it had been operated before by Penn Central. We knew, it was understood, that they would continue to have to operate both the commuters and the freight trains over this, but they would be operated by other parties.

How much should they pay? Congress passed that and said, go to the ICC and have the ICC determine what is a fair figure for each party to pay. We had a proceeding, a hearing before the ICC. This was some years ago, and our position was that you should use fully distributed costs. That is, the overhead should be divided, the overhead for that section of the track, should be divided among all the users in proportion to use.

The ICC said: No, we will not do that. Amtrak is the dominant user and therefore Amtrak should handle all the overhead, and the only thing that the other users pay is the incremental cost to Amtrak of having them there, which is considerably less.

If the other users paid fully distributed costs on the whole corridor all the way to Boston, it would be an additional income to Amtrak of about $71 million a year. But we lost the case before the ICC and that is where it is. That is why if we go out of business and do not pay anything to overhead, this tremendous amount has to be shared by the remainder, and it is a very high figure.

Senator FORD. Thank you, Mr. Chairman.

Senator PACKWOOD. Senator Exon.

Senator EXON. Thank you, Mr. Chairman.

And welcome, Mr. Claytor. We are delighted to have you here today to testify on this very important matter and try to put a perspective on it. Just for the record, I know your background and your history. You are an old free enterpriser like myself.

Just for the record, would you briefly state your previous positions before you became president and chairman of the board of Amtrak? I would like to have that in the record.

Mr. CLAYTOR. Yes, sir. I practiced law here in Washington for about 30 years, except for duty in the Navy during World War II,

and in 1963 became vice president, law, of Southern Railway, which has its headquarters here in Washington; in 1967, was elected president and chief executive officer. I served as president and CEO of Southern for 10 years.

Just before retirement, I was asked by President Carter to be Secretary of the Navy, and as an old Navy man I could not resist that, so I went over as Secretary of the Navy for 2 years, and was then moved up to Deputy Secretary of Defense for the next 2 years. When the term was over, I went back and served as counsel to a law firm here for a short time.

When Alan Boyd retired, Drew Lewis asked me if I would take over Amtrak. He wanted a railroad man on the job. The challenge of being able to take a passenger railroad and really try to make it into something that was both more efficient and provided better service was too much for me, so I accepted it.

Senator EXON. Thank you very much, Mr. Claytor. I think, then, that we can all conclude that you are not one of those bureaucrats in Washington, DC, who need the continuation of this system so that you will have a job?

Mr. CLAYTOR. Mr. Chairman, if the Congress decides to give Amtrak inadequate money to enable it to do anything but file for bankruptcy, I would recommend to my board as we approach the date that we terminate all service, that we file a voluntary petition for bankruptcy, and that they accept my resignation right then and there, because I did not take this job to liquidate Amtrak.

Senator EXON. Thank you.

You have had a very distinguished career and you know whereof you speak in this business. I am glad that we have people like you serving in Government.

I have one more question. You know, Mr. Claytor, of the tremendous pressures that we are under here to reduce this budget. Freezing it in place simply will not do the job. That is why I for years, not months or weeks, have been talking about a freeze plus concept. I think Amtrak falls into that category of, we should continue it but we have to reduce it, along with a lot of other programs.

Now, you heard my question to Governor Orr, who is on the board of directors of Amtrak. Certainly as the president you must have looked at the proposition as to what you might recommend to us as a reduction from the fiscal 1986 budget figure that you requested.

Have you looked at it?

Mr. CLAYTOR. Yes, sir.

Senator EXON. Are you prepared to tell us today what would be your bottom line, so to speak, to continue a national rail passenger system, as you outlined in your testimony, with perhaps an increase in fares or something to get below as much as you can the earlier request that you made in the budget proposal?

Mr. CLAYTOR. Yes, sir. I have so testified heretofore on this. We could maintain the company without triggering the labor protection, which is what creates most of the difficulty, with a reduction of up to 10 percent below our base line figure. You know, I cannot draw the difference between 8 percent and 12 percent, but if we try 20 or 30 percent I am over the edge.

So 10 percent I could do. Now, how do we do this? We do this by avoiding all capital expenditures, some of which are included in that figure, for this year, except the ones we have to make, like a bridge is falling down, you have to fix that, but a modest amount for capital.

We would then have to defer maintenance not affecting safety. In other words, we would not reupholster the seats of the passenger cars quite so often. The service would deteriorate a little bit, but not seriously in one year. If we tried to follow the same practices for several years, we would get in the same ditch that Penn Central got into.

But there are other things that are coming down the road that should help us. I mentioned making agreements to take over the off-corridor train and engine employees on the same basis that we have our employees on the Northeast corridor. That cannot be done overnight. We were going to do that this year with the first step of a saving of probably $5 or $6 million this year, if it had not been for the budget crisis. We had to postpone that.

I would try that next year. If we did the whole system, I think that would get another $30 million out of the budget in the out years.

Senator EXON. It seems to me, Mr. Claytor, that what you are basically telling us is that by and large to meet the reduction you would propose that you cut maintenance costs, cut some capital construction costs, except the ones that are fundamental and necessary?

Mr. CLAYTOR. Yes, sir.

Senator EXON. It seems to me that what you are really saying, then, is that you are really deferring much of this into the out years.

Mr. CLAYTOR. Yes, sir.

Senator EXON. I am wondering if you have also looked at—I am sure that there could be some savings made in Amtrak costs along the line, if you could get more in the form of revenue from at least slightly increased ticket charges.

Mr. CLAYTOR. Well, we do anticipate more revenue, and the two items within the next 2 years, 2-3 years, that we would certainly get an increased revenue in are the new parking garage that is now under construction by the District of Columbia, not with Amtrak money. It will be finished in 1986 here in Washington.

We do not get anyone who is in the suburbs, unless they are willing to drive all the way out to New Carrollton, to take Amtrak, because he has no place to put his automobile. Now, that is a terrible thing. I think we will increase our revenue on the corridor significantly with that.

We are also moving ahead with the West Side connection in New York in conjunction with the State of New York, which will bring all of the upstate New York trains into Penn Station and provide through service and direct connecting service to the entire corridor from Albany, Buffalo, and the Niagara Falls area.

That will be a big boost to our service, because no one will go into New York from Philadelphia and take 45 minutes to try to get across town to Grand Central, not knowing whether he can do it in

45 minutes or an hour and a half today. That will be another big thing.

Both of those things should increase our revenue. We have a whole potful of smaller things. The way you improve your bottom line in the railroad business is not by pressing some big button and having a lot happen. It is a lot of small things that add up. We have a lot of them going.

I think that we are completing this year the new maintenance facility here in Washington. It will be finished in August. With that in full service, we ought to get several million dollars a year out of our maintenance without deferring anything.

All of those are coming along, and I will take as much of that as I can. And I hope the following year I can hold that ten percent reduction with other reductions and not defer anything further.

But when you take any major move, you have got to take quick action. Every railroad knows—and this is good railroads, not just the ones going busted—know that when business is very bad there are ways of cutting your expenses for the short term until you can get other things to fill in.

Now, that is what I am saying. We can do that. It is not going to hurt the company. It is not something I would like to do, but I can do it, I can get away with it, and we are going to keep on reducing our bottom line.

Incidentally, sir, I do need to say, the bottom line for us is our revenue to cost ratio, what percentage of our total operating costs—that is fully distributed costs, that is the entire cost of running the company—are covered by our own revenues. Back in 1976-77 it was only 42 to 43 percent. We brought it up every year. This year it is 58 and next year it is going to be 60, and I am going to make it to 67, two-thirds, within 3 to 4 years. We can do that, I am satisfied.

But Mr. Stockman was talking about the difference between fully distributed or fully allocated costs and short term avoidable costs. You use the avoidable costs when you are evaluating whether to start or stop a new train. You use fully allocated costs when you are looking at your bottom line, and we do, just as he did.

Senator EXON. Thank you.

Thank you very much, Mr. Chairman.

Senator PACKWOOD. Thank you, Senator.

And thank you, Mr. Claytor, very much.

Mr. CLAYTOR. Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF W. GRAHAM CLAYTOR, JR., PRESIDENT AND CHAIRMAN OF THE BOARD, AMTRAK

My name is W. Graham Claytor, Jr. I am President and Chairman of the Board of the National Railroad Passenger Corporation [AMTRAK]. I appreciate the opportunity to appear before you to discuss the corporation's budget for Fiscal Year 1986.

Those of you who follow Amtrak know that we have made significant progress toward reducing our costs while improving service. We are operating at a high rate of efficiency, and I believe we can do even better. Unfortunately, the Administration's budget proposal for Amtrak would result in the permanent and irrevocable termination of all Amtrak service. If the reward for our gains is termination, there will be no reason for other recipients of federal funds to strive to achieve the efficiency levels that we have attained.

All of us in this room recognize the need to balance the federal budget. Frankly, I think it is unfair to place almost the entire burden of transportation cuts on public transportation—Amtrak and mass transit. We are suggesting that Congress freeze Amtrak at last year's level of $684 million, which was the lowest appropriation we have had since 1977. The Administration's proposal to eliminate funding for Amtrak is not justifiable in light of the effectiveness of the program or the value of the service Amtrak provides. In fact, if every federally funded program were operating below its FY 1978 funding level, the Congress would not now be forced to debate such draconian measures to reduce the federal deficit.

During the last several years Amtrak has consistently reduced its dependence on government support by covering a significantly larger percentage of its total costs through its own revenues, and has met or exceeded the goals established by Congress. Amtrak's revenue-to-cost ratio has improved from 48 percent in 1978 to 58 percent in 1985 and the corporation's Fiscal Year 1986 budget assumes a revenue-to-cost ratio of at least 60 percent. I expect to cover two-thirds of our costs sometime within the next 5 years and may be able to do better than that, depending on inflation and the general economic condition of the travel industry. We are going to continue this steady pace of improving our financial performance, but cannot do it all in one year and cannot survive the drastic budget cuts recommended by the Administration or a majority of the Senate Budget Committee.

Amtrak has already submitted a legislative program to the Committee that would save several million dollars annually if enacted. It includes amendments to eliminate off-corridor full crew laws, allow Amtrak to compete for preferred contract status for federal employee travel, and clarifies Amtrak's authority to carry automobiles on Auto Train regardless of whether they are accompanied by their owner. In addition, I would suggest that Congress clarify the Rail Passenger Service Act to eliminate any question that frequency changes do not trigger labor protection costs. It is Amtrak's position that we currently have the authority to make frequency changes without incurring labor protection costs, but there has been disagreement on this. Such clarification would insure avoidance of labor protection costs in the event frequency adjustments are required.

I would also like to comment on some suggestions that have been made by Mr. Riley regarding ways to achieve revenue additions or cost reductions. It was suggested that a more equitable distribution of operating costs within the Northeast Corridor would reduce Amtrak's deficit by $71 million. This is based on the assumption that fully allocated costs would be paid by every user, including commuter authorities and freight railroads. Although Amtrak sought compensation on this basis several years ago, the ICC has refused to allocate costs this way. The Commission basically ruled that Amtrak is responsible for all the overhead costs. As a practical matter, a distribution of these costs along the lines we initially suggested to the ICC would probably require an act of Congress.

Mr. Riley has also suggested imposing Auto Train type labor agreements nationwide. The kind of labor arrangements we have made on Auto Train are uniquely suited to that specialized operation. It is our objective to implement the type of labor agreements that we were able to negotiate on the Northeast Corridor wherever possible in the Amtrak system. This has to be done by discussions on a case-by-case basis with both the operating railroads and the labor unions, and this inevitably takes a lot of time. We were planning to make progress this year and try to take over train and engine employees operating on Conrail outside the Corridor. We had to postpone that proposal because we cannot successfully persuade people to come to work for Amtrak when our very existence is threatened. We expect to be able to achieve a savings in these areas over the years, but we cannot possibly do it in one fell swoop.

With respect to a wage freeze, which has also been suggested, I should point out that Amtrak as well as the rest of the railroad industry is currently involved in contract negotiations with all our unions. Amtrak is participating in national handling with many of these unions in negotiating wages as well as health and welfare benefits. It is important to note that since 1981, Amtrak has maintained a 12 percent wage differential between its employees' wage rates and the industry standard. If a wage and salary freeze on Amtrak employees were mandated by Congress it would increase the already significant differential between Amtrak employees and employees in the freight railroad industry, with unknown effects on our ability to maintain service. The actual savings to Amtrak cannot be calculated because they would depend on the final industry wage settlements that the industry is currently negotiating with labor. If Congress does freeze all Amtrak wages and salaries, I think it would be appropriate to request that Congress enact legislation to restore the ability of Amtrak's Board of Directors to set an appropriate salary structure for

our management. Present legislation makes us noncompetitive with others in the railroad and travel industry and has already resulted in the loss of several of our most capable officers and executives.

A zero budget for Amtrak is quite different from most other proposed cuts in that it takes an organization with a $3 billion investment that has taken 14 years to build, a going concern with 25,000 employees, and permanently wipes it out. Most of the other cuts simply suspend programs by not adding new facilities, or pause in the middle of programs and hold the line until, perhaps at some future time, they can be restored or expanded. But with Amtrak, the whole investment and the entire operation is eliminated once and for all. This is an irreversible decision—we would never be able to bring passenger service back again. I think that I can show that it would not in the end save money, but would lose more than it saves in pure economic terms, wholly aside from consideration of the needed services. I will try to go into that point in some detail.

First of all, we have over $3 billion of investment in Amtrak after depreciation, much of which is just now being completed. For example, $2 billion has been put into the Northeast Corridor alone, with new equipment, new locomotives, and new facilities that are among the most efficient shops for passenger service in the world. We're just beginning to get the benefits of that investment. Our equipment would have relatively little market value if Amtrak were eliminated because its only use is for intercity passenger service. If there were no intercity passenger service, I believe our equipment and many of our facilities would have to be liquidated at approximately scrap value. Thus, although it would cost $6 billion to $9 billion today to reproduce Amtrak's assets, their liquidation value would be negligible. The proposed zero budget would utterly destroy a needed, going operation, and throw away most of the government's investment in Amtrak.

Amtrak has 21,000 employees. The railroads over which we operate provide an additional 4,200 employees. Thus, there are approximately 25,000 employees around the country, in 44 states, who would lose their jobs if Amtrak were terminated. Abandonment of intercity rail passenger service would trigger provisions of agreements entered into by Amtrak and its contract railroads at the direction of Congress to protect the interests of employees adversely affected by train discontinuances. The labor protection payments that Amtrak was required by statute to commit to pay to displaced employees will come to approximately $2.1 billion over a six-year period. So in addition to $3 billion of investment that gets scrapped, a new liability of $2.1 billion is assumed. In the first year, Amtrak's liability would be about $645 million, which is actually more than our total grant for operations in FY 1985 and more than we are seeking for operations in FY 1986. In addition, the railroads over which we operate would be subject to an additional labor protection liability of about $200 million over a six-year period.

There has been some talk about the government would not pay for this labor protection, and that Amtrak would just have to pay it out of its assets. The liquidation value of Amtrak's assets, of course, would be totally insufficient to pay $2.1 billion of labor protection liability, quite apart from substantial other claims against, and administrative costs of, Amtrak's estate. As it becomes apparent just how little could be paid out of the estate, labor protection claimants and other creditors would turn to the only other source of funding—the United States government. Congress created the promise to pay labor protection, thus encouraging employees to stay with an industry that had an uncertain beginning. If it then triggered the obligation to pay labor protection by voting to terminate Amtrak funding, and at the same time declined to give Amtrak the funds to carry out its commitment, I believe there would be very serious legal questions as to whether or not the government was liable for this obligation.

The same serious question would be raised if Congress tried to reduce the labor protection obligation at the same time it was enacting legislation leading to Amtrak's bankruptcy. It is quite clear that major litigation would commence once labor found that it could not recover these statutory benefits from Amtrak. The government would probably end up paying the whole bill, and at a minimum, there would be a very undesirable confrontation between labor and Congress. The idea that this is not a problem for the government or for the budget is not realistic. Attached to and made a part of this testimony as Exhibit 1 is an opinion of April 17, 1985 by the law firm of Covington & Burling that deals with this and related legal question which would arise out of the insolvency and bankruptcy of Amtrak that would result from termination of its appropriation.

Regardless of whether or not the government is liable for labor protection, there is no question but that Amtrak would be. Amtrak cannot discontinue service without bringing these provisions into play. Consequently, termination of routes starts a

domino effect as the labor protection costs for routes eliminated use up an ever-increasing portion of our budget. For example, if we discontinue the five most expensive trains that we run, we would nominally save their current operating loss of $101 million, and could accordingly reduce our appropriation by this amount. The trouble is that the labor protection cost incurred by laying off the people needed to operate and service these trains is $81 million in the first year. As a result, most of the savings go to satisfy a new liability. For a $20 million savings you eliminate five long distance trains that account for over one-fourth of all the passenger miles generated on the Amtrak system. The labor protection costs lock us in so that it is not possible for us to reduce our funding needs by cutting back service.

Amtrak will need about the same level of funding in the first few years with a substantial service cut, as we would if we operated the present system. This is a compelling reason why cutting back to a Northeast Corridor-only option, for example, is not feasible. If Amtrak discontinued all service except that in the Northeast Corridor, the nominal savings in operating loss would be $392 million. The labor protection liability incurred by this service discontinuance, however, would be about $1 billion, of which $330 million (plus $30 million of shut-down costs) would be payable in the first year. Accordingly, the actual savings in subsidy would amount to only $32 million. The subsidy required to operate the Corridor is approximately $247 million per year. This means that the fiscal year 1986 appropriation required to cover labor protection costs and operating losses on the Corridor would have to be about $607 million.

As a result of this "Catch 22" situation, a substantial cut in Amtrak's appropriation would render Amtrak insolvent and unable to operate any service at all to the same extent as would a "zero" budget. The Senate Budget Committee's proposal to cut Amtrak 30 percent in the first year, 43 percent in the second year, and 54 percent in the third year would not, as apparently intended, permit the gradual phasing down of Amtrak's operations. Instead, even the proposed first-year cut of 30 percent would inevitably result in its immediate insolvency, and the only responsible thing to do would be to shut-down on October 1, 1985, and file for bankruptcy. The proposed reduction appropriation would provide more funds for the satisfaction of labor protection liability and Amtrak's other debts, but would not permit continued operation of any service.

About half of Amtrak's passengers travel along the Northeast Corridor; the other half come from our largely long distance services that cover the whole country. We have some 24,000 route miles of railroad throughout the country, from coast to coast, with over 600 route miles in the Northeast Corridor. But Amtrak owns and operates the Corridor, which is the highest density and highest speed rail route in the United States. The government is just now completing an investment of over $2 billion to make the Corridor one of the finest rail lines in the world. It is the only really high-speed line in either one of the Americas, and a line that is comparable in many ways to what the Japanese and the French have done with their dedicated all-passenger high-speed lines. As most of you know, we operate at a top speed of 120 mph over this section, with New York-Washington Metroliners scheduled to make the trip in 2 hours and 49 minutes, and doing so with an on-time record of over 90 percent.

New Jersey Transit has about 83,000 commuter trips per day that run into and out of New York City over the NEC through northern New Jersey. SEPTA, the Southeast Pennsylvania Transit Authority, has about 50,000 commuter trips a day that go in and out of Philadelphia over our lines. The Maryland Department of Transportation has almost 2,000 a day that go between Baltimore and Washington over that segment of the Corridor, and some 4,800 additional trips from the Baltimore and Ohio Railroad into and out of Union Station. Massachusetts Bay Transportation Authority has some 25,000 daily commuter trips that operate over lines that Amtrak maintains and dispatches between Boston and the Rhode Island State line. Four freight railroads use extensive portions of our right of way and operate over 90 through and local freight trains a day on the Corridor properties. Conrail serves 260 businesses on Amtrak-owned lines in the Northeast, and among its major customers are automobile plants such as those of Chrysler at Newark, Delaware with 3,100 employees, General Motors at Linden, New Jersey with 3,000 employees, and Ford at Metuchen, New Jersey with 2,500 employees.

Amtrak, of course, not only owns but also operates and maintains the Northeast Corridor. We actually enable it to function because we operate the signals, control dispatching, and employ all the tower operators who have to pass the trains from one segment of track to the other. In addition, we provide the daily maintenance needed to keep this multi-use rail line and its numerous complex interlockings in

top shape, not only for our high-speed intercity service, but for freight and commuter traffic as well.

At the present time, all of the other users of the Corridor between New York and Washington including the Harrisburg line—the commuter agencies, Conrail, and Delaware & Hudson—pay Amtrak collectively $53 million per year for the use of that segment of railroad. If Amtrak were to stop service, it would cost these users $217 million to maintain and operate that part of our line in order to continue current commuter and freight operations. The railroad cannot run without signals, without dispatchers, without tower operators, and without maintenance. These costs will have to be picked up by the remaining users. If we subtract the $53 million they now pay, without Amtrak's operation there would be a net additional cost of $164 million that would be the responsibility of the commuters and the freight railroads. Without these payments, all operations on the New York-Washington Corridor would stop when Amtrak goes out of business.

While the various freight and commuter railroads would probably never agree among themselves on how much of these payments each should make, our own view, based on actual experience with these operations, is that of the $164 million about $47 million should be allocated to New Jersey Transit, $27 million to Southeast Pennsylvania Transit, just under $2 million to Maryland, $82 million to Conrail, and $6 million to Delaware & Hudson. There's a similar problem on the New Haven to Boston and Springfield segments, of course, with some 97 industries on portions of these lines served by Conrail. The additional management and operating costs there of almost $48 million would be so high in proportion to freight volume, however, that it is quite possible that some or even all of it might be abandoned. In sum, a zero Amtrak budget creates over $200 million in added costs that other users—or the U.S. government—would have to pay just to keep the other services running on the Corridor. That doesn't make any sense.

Amtrak carries 17,500 passengers a day between Washington, Baltimore, Wilmington, Philadelphia and New York. All the major airlines serving those cities together have only 12,000 passengers a day. In other words, we carry 46 percent more people than the airlines do along that corridor. Those 17,500 people are going to have to get to their destinations some other way if Amtrak is not running. Automobile and bus transportation for most of those business travelers is probably not a realistic alternative. About the only way business travelers could get from Wilmington or Philadelphia to New York or Washington wihtout Amtrak would be by commuter airlines. Even if you take just the 2,700 people a day who currently travel by Amtrak all the way between New York/Newark and Washington, for example, and assume they switch to air, you will need 38 additional daily landings or takeoffs at Washington National Airport alone to accommodate these travelers. On an annual basis, National Airport would need to accommodate an additional million passengers, just for those people using Amtrak between the end points of New York/Newark and Washington, not counting those going to or from intermediate destinations.

In New York, the problem would be worse. The airports as well as the tunnels and bridges into New York City are frequently choked. With Amtrak gone, most of these passengers would ultimately have to go by air. Additional airport facilities and access roads would cost the federal government billions of dollars. The principal reason that the Northeast Corridor Improvement Project was put into place was that some farsighted people recognized a decade ago that existing transportation modes were having increasing difficulty moving people in this "megalopolis" corridor, and that in 10 or 15 or 20 years it was going to be a much greater problem. They concluded that the only sensible option was improved rail passenger service. We now have that improved system in place, and it is working. In 1986, we will have nearly completed the Northeast Corridor Improvement Project after years of effort and more than $2 billion of investment. This is no time to liquidate it.

But the Northeast Corridor is by no means the whole story. Amtrak is truly a nationwide rail passenger system. It has been stated that most of Amtrak's passengers are affluent and are not going to be hurt by having to take other forms of transportation. While Northeast Corridor passengers are generally oriented towards business and relatively short-distance travel, and so are not too dissimilar in their breakdown of income and age to the people who fly, this is not true with respect to the rest of the country. Almost half of our customers are carried outside the Northeast Corridor and our long haul trains generate about 3.4 billion passenger miles, or about 75 percent of all the passenger miles in the Amtrak system. Forty-seven percent of our long-haul passengers have family incomes of under $20,000 a year. (The average U.S. family income is $28,000 per year). Thirty-six percent of our long-haul

passengers are 55 years old and over, and 21 percent are actually 65 and over. Our national system is heavily oriented to the poor and older citizens.

When you get out into the far reaches of the country, along the Canadian border, for instance, where we run our Empire Builder, through the states of Montana, North Dakota, and northern Minnesota, there are cities where Amtrak is the only reliable public transportation available. We serve in the United States a total of over 500 communities. That's more communities than all the major airlines together serve, and a lot of those communities will never be served by airlines. One hundred and sixty-one communities served by Amtrak will have no air service upon termination of the present local commuter air services subsidy. Fifty-two Amtrak-served communities have no intercity bus service. Twenty-nine Amtrak-served communities have neither air nor bus service. We are providing an essential social service around the country to those communities without air or bus service, and even where air or bus service is available, Amtrak is the only service that can operate under extreme weather conditions.

Elimination of intercity rail passenger service also has serious implications for transportation in national emergencies, including that needed for national defense. Amtrak has in daily operation equipment offering almost 70,000 seats and 6,000 sleeping car berths, as well as requisite food service cars. We have been working closely on emergency plans with the Federal Emergency Management Agency as well as with the Army's Logistics staff at the Pentagon. In the event of a national crisis of any sort, Amtrak is in a position to make available almost immediately 75 percent of its total capacity, with the remainder becoming available within 48-72 hours. This capability will be totally lost if Amtrak is phased out. Attached to this testimony as Exhibit 2 is a letter of January 23, 1985 from the Director of FEMA that emphasizes Amtrak's importance in this area.

There has been a much publicized statement that every time you get on an Amtrak train it costs the government $35. This is a misleading and unfair statement unless you tell the whole story. If you take Amtrak's 1985 operating cost subsidy ($640 million) and divide by 20 million annual passengers, you get a cost of $32 a passenger. To this we must add loss of revenue to the government from any tax expenditures. On the basis of a survey made in the summer of 1983, about 20 percent of Amtrak's revenues are from business travelers who can deduct the cost of their tickets from taxable business income. The resulting loss of revenue to the government amounts to about $46 million or $2 per Amtrak passenger. That makes $34 a passenger for both direct subsidy and tax revenue loss or tax expenditure, as it is usually called.

But we should also look at what happens with respect to air travelers. Typically 65 percent of the revenue on the major airlines is generated by business travelers. We found that to be the case by contacting two of the nation's largest air carriers. If you divided the approximately $7 billion in lost revenue to the treasury due to business travel deductions on the major airlines by their total number of passengers, some 221 million, it comes to an indirect subsidy of $33 per airline passenger. This total is quite comparable to the total per passenger cost for Amtrak. To put this point another way, 80 percent of Amtrak's revenues are derived from passengers who use only their own money to pay for their tickets, while only 35 percent of airline revenue is from travelers who do so; for the other 65 percent of their revenues, the government pays almost half the fare through tax deductions.

In addition, in 1984 some $2.6 billion from the general fund was used to pay for FAA operations including $2.1 billion for the maintenance and operation of the air traffic control system. This air traffic control system permits all aircraft to fly and keeps them from running into each other. It is very comparable to the railroads' dispatching and signaling system, except that the dispatching and signaling system upon which Amtrak depends is all paid for by Amtrak. Furthermore, for 1984, 1985 and 1986 the government will have lost over a billion dollars in revenue because of the issuance of airport construction tax-free revenue bonds. While the airlines pay fees to the airports for using them, these fees are less because the cost of the airport has been reduced by this substantial tax break. There are other indirect but expensive subsidies still going to commercial air transportation, such as $516.2 million to NASA in 1982 (latest data available) for aeronautical research and technology, other than space technology. When all these and other indirect air subsidies are added to the $33 per passenger tax expenditure, Amtrak's subsidy appears considerably smaller than that given to our competition.

Since 1971, all levels of government have spent $424 billion on highways, $46 billion of that in 1983 (latest available data). Not all of that $46 billion came from motor fuel taxes, some $8.9 billion in 1983 was obtained from general fund appropriations at federal, state and local levels. In other words, Amtrak's smaller subsidy

is a target because it is on top of the table and highly visible. It is grossly unfair to single it out for elimination while keeping larger but indirect and less visible air and highway subsidies intact. If they were eliminated, all transportation fares would increase, and Amtrak could cover a substantial portion or even all of its losses from its increased revenues.

It is ironic that the World Bank continues to stress the importance of railroads in developing countries through monetary assistance at a time when the United States is considering terminating all rail passenger services. During the last 15 years, the United States donated $72 billion, about one-third of all donations, to the International Development Association (IDA) of the World Bank. The IDA provides 50-year interest free loans with 10 years' grace period to underdeveloped countries for transportation, agriculture and the like. India, Pakistan, Korea and other countries received $2.5 billion of these soft loans for railroads with the U.S. portion totaling about $837 million.

Congress should not fail to recognize the progress Amtrak has been making. In constant dollars our total appropriation for operating cost has declined 26.6 percent from 1981 to 1985. During the last several years Amtrak has consistently reduced its dependence on government support and has covered a significantly larger percentage of its total costs through the revenues its generates. Amtrak was told by the Secretary of Transportation Drew Lewis three years ago that he was satisfied that this Administration was committed to maintaining Amtrak permanently as long as it continued to improve its service, increase its revenues and decrease its costs. We've moved forward more than we or the Administration expected. But our progress has been lost in the shuffle. We're now threatened with being put out of business. I honestly believe that elimination of rail passenger service would result in greater costs to both the government and to our customers—the people of the United States—than anything that's going to be saved by eliminating our appropriation.

For FY 1985, we have $684 million dollars as our total appropriation, the lowest we've had since 1977. We are asking for a freeze to keep the same budget, the same appropriation for next year, FY 1986, which means that it's really between a four and a five percent reduction since we will have to absorb inflation. An appropriation at this level will enable us to avoid cutting off trains with the resulting labor protection expense, and at the same time to continue to improve our revenue to expense ratio.

I am confident that a careful examination of the direct and indirect costs of eliminating Amtrak will make it plain that this would be an enormous disaster for our 20 million customers as well as both corridor and off-corridor communities that desperately need and use the service we promote, both directly through our intercity trains and indirectly through our operation and maintenance of the Northeast Corridor. We are providing a valuable service to our passengers and to the taxpayers.

Without Amtrak, the United States would be the only developed country in the world without intercity rail passenger service. In fact, even long-distance surface transportation by bus is in jeopardy. Recent news articles indicate Greyhound is concentrating on routes under 500 miles between smaller cities and there have been predictions by knowledgeable people in the industy that most bus companies will be concentrating on charter and tour service, with regular route service across the country declining. Without Amtrak, there may well be little or no long distance scheduled surface passenger transportation.

There are sound reasons for supporting Amtrak—in terms of economics as well as transportation policy—and there are extremely serious consequences to be faced if Amtrak's federal support is eliminated.

EXHIBIT 1

COVINGTON & BURLING,
Washington, DC, April 17, 1985.

PAUL F. MICKEY, Esq.,
Executive Vice President, Law and Public Affairs, National Railroad Passenger Corporation,
Washington, DC.

DEAR MR. MICKEY: You have informed us that, if no funds for Amtrak are included in the FY 1986 budget, Amtrak will be unable to continue its rail passenger serv-

ice operations.[1] In the event of discontinuance of such operations Amtrak will become insolvent, since it will be unable to pay from funds on hand its labor-protection [2] and other [3] obligations. Proceedings under Chapter 11 of the Bankruptcy Act would, presumably, quickly follow. It is expected that liquidation of Amtrak's assets would fall far short of producing the amount needed to pay its creditors in full.[4]

You have asked us four questions:

1. Would a bankruptcy court be likely to hold that the claims of the United States, although secured by liens on most of Amtrak's property, should be equitably subordinated to prebankruptcy unsecured claims, particularly the $2.1 billion of labor protection, with the probable result that the United States would realize nothing on its claims?

2. Could Congress constitutionally, by amending the RPSA or otherwise, eliminate or reduce Amtrak's labor-protection obligations in the context of a complete elimination of federal funding of Amtrak?

3. If the answer to question 1 is yes, could Congress prevent that result, and ensure priority for the United States' claims, by legislation?

4. Is it likely that the United States would itself be held liable to pay Amtrak's labor-protection obligations?

Our answers are as follows: question 1, yes; question 2, probably not; question 3, probably not; question 4, yes.

THE FACTS

The facts material to these questions are as follows. The United States, by § 301 of RPSA, caused Amtrak to be incorporated as a for-profit corporation, "the purpose of which shall be to provide intercity and commuter rail passenger services." "The Corporation will not be an agency or establishment of the United States Government." "The right to repeal, alter, or amend this Act at any time is expressly reserved." Id.

While Amtrak issued common stock to private railroads in return for financial contributions mandated by Congress, RPSA, § 304(a), the United States owns all the preferred stock, which has a liquidation preference, *id.*, and is entitled to all the voting power until the preferred stock is progressively converted to common stock, § 303(c), which has never occurred. The federal government thus is for practical purposes the sole shareholder of Amtrak.

The rail passenger system that Amtrak was initially ordered to operate was directed by Congress on the recommendation of the Secretary of Transportation, §§ 201, 202. All subsequent decisions as to whether to continue, abandon or add spe-

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[1] You have informed us that, even without regard to labor-protection obligations, continued operation not only of Amtrak's entire system but of any part thereof (such as the Northeast Corridor) without federal funding would be at a loss.

In these circumstances, Amtrak would appear not to be authorized to operate after the beginning of FY 1986, in view of the provisions of Section 404(c)(4)(A) of the Rail Passenger Service Act, as amended ("RPSA," 45 U.S.C. § 501 et seq.), that Amtrak's "annual total costs shall not exceed the funds" provided by Congress and by other sources.

[2] Under Section 405 of the RPSA, Amtrak was required to provide fair and equitable arrangements to protect the interests of employees * * * affected by a discontinuance of intercity rail passenger service," in accordance with detailed standards specified in the statute, and such arrangements were required to be certified by the Secretary of Labor as complying with the requirements of the Act. The labor-protection obligations were agreed between Amtrak and the labor unions and signed by them, and were certified by the Secretary of Labor. They appear in Appendix C-2 to the Basic Agreement between Amtrak and the railroads.

You have informed us that Amtrak's studies indicate that, in the event of a total discontinuance of Amtrak operations, the labor-protection obligations pursuant to Appendix C-2 would require the payment of approximately $2.1 billion over the six years following discontinuance.

[3] The amount of prebankruptcy unsecured claims, aside from labor-protection obligations and claims of the United States, has not yet been estimated but would be substantial. They would include claims under trade contracts and tort claims.

The United States' principal claims as a creditor would be (1) $1,119,635,428.43, plus interest, pursuant to a Note dated as of October 5, 1983, secured by "all Amtrak equipment" (rolling stock), and (2) approximately $1.9 billion (plus interest in certain contingencies), or such lesser amount as shall represent the value of the Northeast Corridor on April 1, 1976, secured by a mortgage on the Northeast Corridor. Both notes have maturity dates far in the future and no installment payments are provided for. However, the United States may declare all amounts under the equipment Note due and payable if Amtrak should permanently cease operation of intercity rail passenger service, and the United States may declare amounts owing under the mortgage Note due and payable at any time by statute.

[4] While the book value of Amtrak's assets is approximately $3.1 billion, you have informed us that the amount realizable in liquidation for those assets would undoubtedly be far less.

cific service are determined by detailed criteria established by Congress, §§ 403, 404, 1001–04. It is thus on the United States' sole responsibility that Amtrak has operated a rail passenger system that results in substantial losses and has made large federal subsidies necessary.

As already mentioned, Amtrak was required by Congress (§ 405) to enter into the contract that establishes the labor-protection obligations which, upon Amtrak's complete discontinuance of service, would constitute the major non-federal creditor claims against Amtrak's estate.[5] While Congress has provided annual funding for the relatively minor labor-protection payments occasioned by specific discontinuances of service, it provided no funding or security that could meet the approximately $2.1 billion of payments that Amtrak would be required to make in the event of complete discontinuance. Since these claims would rank equally in bankruptcy with other prebankruptcy unsecured claims, all other claims in that category would be decisively affected by the existence of these obligations and Amtrak's inability to discharge them out of the liquidation proceeds of its assets. Thus ordinary trade, tort and other creditors would, like Amtrak's employees, be adversely affected by the failure to fund labor-protection obligations and, absent liability of the United States, are likely to realize only a small fraction of their claims in the event of Amtrak's bankruptcy.

In operating the rail passenger service prescribed by Congress, Amtrak has incurred large losses in each year of its operations. Cumulatively, Amtrak has received approximately $10 billion from the United States. Of this amount, preferred stock has been issued for approximately $2.9 billion; $1.1 billion has been treated as a loan secured by Amtrak's rolling stock; another $1.9 billion has been treated as a loan secured by a mortgage on the Northeast Corridor, and the remaining $4.1 billion has not been converted into any debt or equity interest.

We are informed that it could not reasonably be contended that the approximately $3 billion of federal payments to Amtrak that have been treated as loans could have been borrowed from any other source.

QUESTION 1—EQUITABLE SUBORDINATION

We believe it probable that a bankruptcy court would hold that the claims of the United States as a creditor against Amtrak's estate should be equitably subordinated to the claims of general unsecured prebankruptcy creditors, and that the United States' liens[6] should disappear or pass to the estate.[7]

Equitable subordination, until recently a judge-created doctrine, now has statutory recognition in the Bankruptcy Code.[8] The doctrine entails that the claims, as creditor, of controlling shareholders will be subordinated in circumstances where allowance of such claims on a priority or equal basis would be unfair and harmful to other creditors.[9] Among the best-recognized situations in which the doctrine will be applied are (1) where the bankrupt corporation is deemed to have been undercapitalized by its controlling shareholders,[10] and (2) where those shareholders have supplied debt financing in circumstances where equity capital was economically re-

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[5] The United States was not itself a party to the Basic Agreement with the railroads, National Railroad Passenger Corp. v. Atchison, T. & S.F. Ry., 53 U.S.L.W. 4285 (U.S., March 18, 1985), or to Appendix C–2 to the Basic Agreement, which contains Amtrak's direct labor-protection obligations.

Appendix C–1 contains the labor-protection obligations of the freight railroads which contracted with Amtrak. Amtrak agreed to reimburse these railroads for amounts spent by them to protect employees holding jobs which Amtrak requested to be added subsequent to the initiation of Amtrak's service. That agreement would cost Amtrak approximately $.2 billion in the event of complete discontinuance; Amtrak's direct obligations under Appendix C–2 would cost approximately $1.9 billion.

[6] One of the United States' liens in a security interest in Amtrak's rolling stock. It does not, however, appear to be a "purchase-money equipment security interest" within the meaning of § 1168 of the Bankruptcy Act, and in any event the Note for the debt in question does not grant the United States a right to take possession of the rolling stock in the event of bankruptcy. For both these reasons, the United States would not be entitled under § 1168 to take possession of the rolling stock in the event of Amtrak's bankruptcy.

[7] This is a consequence of equitable subordination. Reiner v. Washington Plate Glass Co., 711 F.2d 414 (D.C. Cir. 1983).

[8] 11 U.S.C. § 510(c). See 3 Collier on Bankruptcy § 510.05 (15th ed. 1984).

[9] Id. at § 510.05[2]; In the Matter of Mobile Steel Co., 563 F.2d 692 (5th Cir. 1977).

[10] Pepper v. Litton, 308 U.S. 295 (1939); Hackney & Benson, "Shareholder Liability for Inadequate Capital," 43 U. Pitt. L. Rev. 837, 879–83 (1982).

quired.[11] Such shareholders will not be permitted to enjoy equality with, let alone priority over, other creditors when they made loans to, and/or obtained security interests in the property of, their undercapitalized subsidiary.

An enterprise is undercapitalized if its owners do not provide it with sufficient equity capital to meet the normal and foreseeable demands and obligations of the business in which it is to engage.[12] A strong, though not at all necessary, factor indicating undercapitalization is the existence of loans made to the subsidiary by the parent in circumstances where investing the amount as equity would have made the subsidiary more viable and where such loans could not have been procured from independent sources of financing.[13]

We believe a court would probably find that Amtrak was undercapitalized, and particularly so with respect to its labor-protection obligations. While Congress conveyed very large sums to Amtrak in the form of appropriations, taking no ownership or debt interest at all for some of those sums and taking an equity interest (the preferred stock) for some others,[14] the adequacy of the sums must be assessed in the light of the magnitude of the nationwide, money-losing rail passenger operations that Amtrak was required to conduct and, indeed, to expand and to upgrade. Moreover, to the extent that the congressional appropriations were expended on operations or for investment in capital purchases and improvements with no net-income-producing capacity, they furnished little or no equity cushion to Amtrak or protection to its creditors. And Congress kept Amtrak on a tight leash; there has never been a time when a cessation of government appropriations would not have led to Amtrak's prompt bankruptcy.[15]

Most important of all, Congress required Amtrak to assume by contract a liability for labor protection that, in the event of Amtrak's total discontinuance of service, is estimated to amount to some $2.1 billion. Total discontinuance was always a real and foreseeable possibility. Congress originally authorized Amtrak to operate is service on a two-year trial basis only. Appropriations could always be cut off, with discontinuance as the necessary result. And Congress expressly reserved the right to repeal, alter or amend the RPSA at any time.[16] Thus a total discontinuance of Amtrak's operations, and the consequent triggering of the maximum labor-protection obligation, must be considered a normal and foreseeable incident of the business in which Amtrak was directed to engage.[17]

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[11] Taylor v. Standard Gas & Electric Co., 306 U.S. 307, 323 (1939); Goldie v. Cox, 130 F.2d 695 (8th Cir. 1942); In the Matter of Mobile Steel Co., supra; Machinery Rental Inc. v. Herpel, 622 F.2d 709 (5th Cir. 1980); In re Trimble Co., 479 F.2d 103 (3d Cir. 1973). "The essential fairness of this result is readily apparent because not only did the claimant increase the risks of failure to the debtor by undercapitalizing it, the claimant also seeks to share in the distribution of the debtor's assets based on purported loans to the debtor which were substitutes for risk capital. If these 'loans' had been invested in the proper form, they would not have been grounded, in the order of distribution, on a parity with the claims of the general creditors." 3 Collier, supra, at § 510.05[4][a].

[12] In the Matter of Mobile Steel Co., supra, at 703 ("Capitalization is inadequate if, in the opinion of a skilled financial analyst, it would definitely be insufficient to support a business of the size and nature of the bankrupt in light of the circumstances existing at the time the bankrupt was capitalized"); Henn & Alexander, Laws of Corporations 536 (3d ed. 1983); 1 Fletcher, Cyclopedia of the Law of Private Corporations § 44.1 (1983).

[13] In the matter of Moble Steel Co., supra, at 703 ("Capitalization is inadequate if, at the time when the advance were made, the bankrupt could not have borrowed a similar amount of money from an informed outside source."); 3 Collier on Bankruptcy § 510.05[4][a] (1984); Latty, op. cit. at 110–41; Hackney & Benson, op. cit. at 893–95.

[14] It might, however, be argued that the preferred stock resembles debt more than equity in view of RPSA § 304(d), which provides that "no obligation with a liquidation interest superior to any preferred stock * * * shall be incurred without the consent of the Secretary."

[15] "If the subsidiary is financially helpless and, through the fault of the parent corporation can call on the parent corporation for capital funds only when and if the parent corporation pleases to grant them, it is cogent evidence" of undercapitalization. Powell, Parent and Subsidiary Corporations 14–15 (1931).

[16] RPSA § 301.

[17] It might be argued that those who voluntarily and knowingly contract with an inadequately capitalized corporation are not entitled to equitable subordination, although this argument is generally deemed relevant only when the creditor seeks to hold the parent directly liable for the subsidiary's debts. See Hackney & Benson, "Shareholder Liability for Inadequate Capital," 43 U. Pitt. L. Rev. 837, 860–67 (1982). Even if the argument is relevant when only equitable subordination is sought, it is far from clear that the argument would succeed here. Employees arguably do not deal with their employer on a purely voluntary basis, id., at 863. That is especially true of workers in a declining industry, like passenger railroad service in the 1970s, whose only alternative to dealing with Amtrak was to lose jobs that in many cases they had held for many years. Finally, Amtrak's employees were arguably entitled to rely on the assurance of Congress and

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In these circumstances, it can be strongly argued that, since Amtrak's parent—the United States—did not provide Amtrak, through equity capital or otherwise,[18] with some means of satisfying that obligation, the legal conclusion must be that Amtrak was undercapitalized and that the United States' claims should be subordinated. The fact that Amtrak's parent caused it to assume the liability in question, without regard to Amtrak's own business interests, provides strong additional support fore this conclusion.[19]

Still further support is provided by the fact that the United States caused Amtrak to become indebted to it to the extent of some $3 billion—a sum far greater than the probable liquidation value of all its assets—in circumstances where such debt financing could not have been obtained from any independent source. As we have seen, this is a circumstance that has been accorded substantial weight in determining undercapitalization. Finally, the United States required Amtrak, as security for the debt financing, to convey liens on the great bulk of its assets, to the prejudice of Amtrak's employees and others who have unsecured claims that otherwise might have been satisfied, at least in part, from the proceeds of those assets.

QUESTION 2—COULD CONGRESS CONSTITUTIONALLY ELIMINATE OR REDUCE AMTRAK'S LABOR-PROTECTION OBLIGATIONS IN THE CONTEXT OF A COMPLETE ELIMINATION OF FEDERAL FUNDING OF AMTRAK?

Could it be successfully argued that Congress could constitutionally, by statute, eliminate or reduce the labor-protection obligations—imposed by Section 405 of the RPSA and undertaken in Appendix C-2 to the Basic Agreement—as part of a plan to disengage the United States from Amtrak by the complete elimination of funding?

In Title V of the Regional Rail Reorganization Act of 1973 (RRRA), 87 Stat. 1012 (1974), Congress provided certain labor-protection benefits for employees of Conrail. No contract was involved; the detailed protection provisions were spelled out in the statute. Subsequently, in successive stages, by the Staggers Act of 1980, 94 Stat. 1895, and then by the Northeast Rail Service Act of 1981, 45 U.S.C. 581 et seq., Congress first modified and then repealed Title V and substituted less generous protection provisions. In Section 1132 of the 1981 Act, Congress declared that the RRRA had failed in its objective of creating a self-sustaining Conrail; that the labor-protection provisions of the RRRA "have resulted in the payment of benefits far in excess of levels anticipated at the time of enactment, have imposed an excessive fiscal burden on the Federal taxpayer, and are now an obstacle to the establishment of improved rail service and continued rail employment in the Northeast"; and that failure to reduce the benefits provided by Title V "would destroy [Conrail's] prospects of becoming a profitable carrier and further injure its employees."

The reduction of benefits was challenged as an unconstitutional taking of property without just compensation and without due process of law. The Special Court rejected the challenges, holding that Title V created no property rights but was rather "social welfare legislation" which Congress could repeal or amend at any time, so long as its action had a reasonable basis and was not patently arbitrary or irrational.[20] The Court examined in detail the finding been in Section 1132 that Title V had resulted in benefits far higher than anticipated, and held that finding to have ben fully justified.[21] The congressional finding that failure to reduce the benefits of Title V would result in discontinuance of rail service, and consequent great injury to employees, was also held justified. In these circumstances, the court had no difficulty in holding that Congress had a reasonable basis for its action, and therefore in rejecting the constitutional challenges.

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the certification by the Secretary of Labor that the contract they accepted guaranted them "fair and equitable protection" "against a worsening of their positions with respect to their employment." RPSA § 405(b), (c). Surely, the non-payment of their contracted-for benefits as a result of Amtrak's bankruptcy would be such a "worsening of their positions." Indeed the employees may have reasonably believed that the United States was directly bound to perform the labor-protection obligations. See n. 24 *infra*.

[18] A parent should not "launch the subsidiary in business without furnishing the appropriate funds or obligating itself to do so." Powell, op. cit. at 14. If Congress did not wish to fund Amtrak with equity capital sufficiednt to pay labor protection, it could, of course, have "obligat[ed] itself" by guaranteeing the obligation.

[19] See Taylor v. Standard Gas & Electric Co., supra.

[20] Railway Labor Executives' Ass'n v. United States, 575 F. Supp. 1554 (Sp. Ct. 1983), cert. denied, 104 S. Ct. 1596 (1984); Hinds v. Consolidated Rail Corp., 518 F. Supp. 1350 (Sp. Ct. 1981), cert. denied, 454 U.S. 1145 (1982). See also Pension Benefit Guaranty Corp. v. R.A. Gray & Co., 104 S. Ct. 2709 (1984); U.S. Railroad Retirement Board v. Fritz, 449 U.S. 166 (1980).

[21] Hinds v. Consolidated Rail Corp., supra.

Congressional repeal or reduction of Amtrak's labor-protection obligations in the context of a complete cessation of funding would present quite different considerations. We are informed that, unlike the situation with Conrail, it could not be claimed that Amtrak has incurred obligations beyond what was intended or expected. Moreover, Congress' purpose would not be the continuance of rail service—since Amtrak's service will stop in any event if federal funding ceases [22]—with concomitant benefits to employees. Congress' purpose would, rather, be to advantage other claimants against Amtrak's assets (including the United States) and/or to avoid the expenditure of federal funds to discharge the labor-protection obligations. It is by no means clear that such purposes would be held to provide the reasonable basis that due-process-clause analysis requires even for the repeal of mere social-welfare benefits.

Moreover, in Amtrak's case, unlike Conrail's contractual rights are involved. With respect to Conrail Congress provided for benefits by statute, whereas with respect to Amtrak Congress caused a contract to be negotiated, signed, and certified by the Secretary of Labor. It is true that Congress can legislate so as to frustrate private contract rights if a reasonable basis exists.[23] For the reasons already indicated, we doubt that a reasonable basis would be found if the congressional objective was not to preserve Amtrak's service and employment but merely to benefit some of Amtrak's creditors at the expense of others.[24]

Finally, a substantial arguement could be made that congressional action eliminating or reducing the labor-protection rights of Amtrak's employees—action taken in circumstances in which Amtrak's bankruptcy was foreseeable and indeed imminent—would in substance be an *ad hoc* attempt to alter the rights and priorities of creditors in a particular bankruptcy. So viewed, and the statute would stand an excellent chance of being held to infringe the uniformity requirement of the bankruptcy clause of the Constitution (Art. I, § 8, cl. 4, giving Congress power "to establish . . . uniform Laws on the subject of Bankruptcies throughout the United States").[25]

QUESTION 3—COULD CONGRESS PREVENT EQUITABLE SUBORDINATION BY LEGISLATION?

An attempt by Congress to prevent equitable subordination by legislation would be in substance, if not in form, an amendment to § 510(c) of the Bankruptcy Code. If such an amendment were limited to an Amtrak Bankruptcy, in would almost certainly be held to infringe the uniformity requirement of the bankruptcy clause of the Constitution, see above.

In addition, such legislation would likely be held to infringe the due-process clause of the Fifth Amendment for the reasons discussed in the answer to Question 2, as well as the equal-protection component of that clause, discussed below.

Suppose that Congress enacted legislation providing that, as a general and uniform rule in bankrutcy, claims of the United States are not subject to equitable subordination. The uniformity problem would then disappear. Moreover, such a statute would not infringe the rule that vested rights in specific property may not be destroyed by bankruptcy legislation,[26] because that rule is inapplicable to unsecured

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[22] If relief from labor-protection obligations would enable Amtrak to continue operations (and employment) on the Northeast Corridor while discontinuing all other operations, the situation would be much closer to that held to warrant relief for Conrail. You have informed us, however, that without any federal funds Amtrak could not conduct profitable or break-even operations on the Northeast Corridor even if relief from the labor-protection obligations triggered by its discontinuance of all other service was available.

[23] Usery v. Turner Elkhorn Mining Co., 428 U.S. 1, 15 (1976); United Transportation Union v. Consolidated Rail Corp., 535 F. Supp. 697 (Sp. Ct.) cert. denied, 457 U.S. 1133 (1982).

[24] As suggested in note 22, supra a quite different situation would be presented if Congress modified Amtrak's labor-protection benefits in the context of ongoing Amtrak passenger-service operations and for the purpose of making Amtrak more economically viable. That would be much closer to the Conrail situation where modifications have been upheld.

[25] See Railway Labor Executives' Ass'n v. Gibbons, 455 U.S. 457, 469-71 (1982) (statute that applies to only one bankrupt railroad and its labor-protection obligations violates the uniformity requirement); Regional Rail Reorganization Act Cases, 419 U.S. 102, 160 (1974) (RRRA held not to violate the uniformity requirement because "the Rail Act in fact operates uniformly upon all bankrupt railroads then operating in the United Sates and uniformly with respect to all creditors of each of these railroads.").

[26] United States v. Security Industrial Bank, 103 S. CT. 407, 410-12 (1982); Louisville Joint Stock Land Bank v. Radford, 295 U.S. 555 (1935); Note, "Constitutional Limitations on the Bankruptcy Power," 52 N.Y.U. L. Rev. 362, 399-401 (1977).

claims.[27] And statutory alterations in the priorities of creditors can constitutionally be made applicable to bankruptcy proceedings commenced before the enactment.[28]

However, a substantial argument could be made that the statute violated the equal-protection component of the due-process clause,[29] which is fully applicable to bankruptcy legislation.[30] Under the principles discussed in our answer to question 2, a reasonable, non-arbitrary basis would have to be shown for treating the United States differently from all other creditors for the purpose of equitable subordination. If the United States has acted in a fashion that would require subordination of any other creditor's claim, it is difficult to discern a non-arbitrary basis for treating the United States differently. In addition, the fact that the difference in treatment resulted in direct financial benefit to the United States would permit a substantial argument that application of the statute to defeat equitable subordination in a particular bankruptcy would effect a taking of property without just compensation, notwithstanding the rule that statutory alterations of priorities in bankruptcy do not normally have that result.

Finally, if the United States were itself held liable for Amtrak's labor-protection obligations—and we suggest under Question 4 that it might well be so held—any issue of equitable subordination or the constitutionality of a congressional attempt to defeat that result would be academic.

QUESTION 4—DIRECT LIABILITY OF THE UNITED STATES FOR AMTRAK'S LABOR-PROTECTION OBLIGATIONS

Liability of a controlling shareholder or parent for the debts of its subsidiary is variously justified on alter-ego, piercing-the-corporate-veil, and agency-or-instrumentality principles.[31] No finding of "wrongdoing" is necessarily involved; it is sufficient if the corporate form has been used in such a way that creditors have been injured in circumstances inconsistent with justice and equity.[32] Piercing the corporate veil for one purpose does not imply piercing it for other or all purposes; what is required, as has been held with respect to Amtrak itself, is "a nexus between the challenged actions of the defendant and the state's regulation and subsidization."[33]

Undercapitalization of the subsidiary is a major and often decisive factor in holding the parent liable.[34]

The fact that Amtrak's parent is a government rather than a commercial enterprise would not appear to be material in assessing its liability. Many formally separate corporations created by the United States have been held to be its agents, instrumentalities or alter egos for a variety of purposes. Questions of whether ostensibly private conduct is attributable to the federal or a state government, so as to

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[27] See authorities just cited; see also Kuehner v. Irving Trust Co., 299 U.S. 445, 451–52 (1937).

[28] New York Credit Men's Adjustment Bureau, Inc. v. A. Jesse Goldstein & Co., 276 F. 2d 886, 888 (2d Cir. 1960); Coin Machine Acceptance Corp. v. O'Donnell, 192 F. 2d 773, 777–78 (4th Cir. 1951); City of Chelsea v. Dolan, 24 F. 2d 522 (1st Cir. 1928).

[29] See cases cited in n. 20 supra.

[30] See, e.g., In re Crist, 632 F. 2d 1226 (5th Cir. 1980), cert. denied, 451 U.S. 986 (1981).

[31] Powell, op. cit., passim; 1 Fletcher, op. cit. §§ 41–48.

[32] Powell, op. cit. at 77–81.

[33] Anderson v. National Railroad Passenger Corp. (7th Cir., Dec. 6, 1984), Slip op. p. 3; accord, Marcucci v. National Railroad Passenger Corp., 589 F. Supp. 725, 727 (N.D. Ill. 1984); see Blum v. Yaretsky, 457 U.S. 991 (1982); Rendell-Baker v. Kohn, 457 U.S. 830 (1982).

[34] See, e.g., Taylor v. Standard Gas & Electric Co., supra, 306 U.S. at 323; Anderson v. Abbott, 321 U.S. 349 (1944); Segan Construction Corp. v. Nor-West Builders, Inc., 274 F. Supp. 691, 699 (D. Conn. 1967); Automotriz del Golfo de California, S.A. v. Resnick, 306 P.2d 1 (Cal. 1957); Remme v. Herzog, 222 Cal. 586 (Cal. App. 1964); Mobridge Community Industries, Inc. v. Toure, Ltd., 273 N.W. 2d 128 (S.D. 1978); Powell, op. cit. at 14; Henn & Alexander, op. cit. at 356; Note, Liability of a Corporation for Acts of a Subsidiary or Affiliate, 71 Harv. L. Rev. 1122, 1125–261, 1128–30 (1958); Latty, Subsidiaries and Affiliated Corporations 110–41 (1936); Hackney & Benson, op. cit. at 837, 851, 854–60; Meiners, Mofsky & Tollison, "Piercing the Veil of Limited Liability," 4 Del. J. Corp. Law 351, 354–55 (1979); 1 Fletcher, op. cit. §§ 41.30, 41.55, 44.1 ("If a corporation is organized and carries on a business without substantial capital in such a way that the corporation is likely to have insufficient assets available to meet its debts, it is inequitable that the stockholders should set up such a flimsy organization to escape personal liability. The attemt to do corporate business without providing any sufficient basis of financial responsibility to creditors is an abuse of the separate entity and will be ineffectual to exempt the stockholders from corporate debts. It is coming to be recognized as the policy of the law that stockholders should in good faith put at the risk of the business unencumbered capital reasonably adequate for its prospective liabilities. If the capital is illusory or trifling compared with the business to be done and the risks of loss, this is ground for denying the separate entity privilege. It has been stated that a corporation's capitalization is a major consideration of courts in deciding whether a legitimate separate corporate entity was maintained.").

become "state action" for purposes of the 5th and 14th amendments to the Constitution, have been analyzed on the basis of normal veil-piercing principles.[35] And in appropriate circumstances government-created corporations, including those created by the United States, have been held to be interchangeable with their sovereign parents for purposes of liability.[36]

As the Court of Claims has observed, "We recognize, of course, that these corporations wholly owned by the Government [e.g., the Panama Canal Company] are hybrid creatures, and that if the equivocal nature of such creatures resulted in fraud upon or other abuse of outside persons, a court would look through the corporate fiction and place liability upon the real principle." [37]

The provisions of the RPSA that Amtrak is not "an agency or establishment of the United States Government," RPSA § 301, should not preclude that result. The provision is best read as making it clear that Amtrak was to be a private corporation and that the United States would not be liable for its debts merely because it was created by statute; in other words, that the relationship created was one of parent and subsidiary, subject to limited liability except as the law provides otherwise. It strains the provision too far to argue that it exempted the United States-Amtrak relationship from the entire body of common law on the subject of parents and subsidiaries. While Congress may have acted from the best of motives, and in the public interest, in creating Amtrak and in managing and funding it as it did, the fact remains that Amtrak was a business corporation quite capable of going bankrupt, with consequent injury to its creditors. In such circumstances it is difficult to see why the normal rules for holding parent liable should not be fully applicable. In other contexts, courts have held that the normal rules are fully applicable to the United States-Amtrak relationship.[38]

We conclude, therefore, that there is a substantial likelihood that, if Amtrak enters bankruptcy, the United States would be held liable for Amtrak's debts. The argument is strongest with respect to Amtrak's labor-protection obligations, since we have found an undercapitalization directly related to those obligations.

The factors we have already discussed under Question 1—undercapitalization, the congressional requirements that Amtrak both operate a losing business and undertake massive labor-protection liability in the event of discontinuance, and the federal loans to Amtrak and taking of liens therefor—appear to provide the "nexus" between the United States' actions and Amtrak's debts that arguably makes the United States liable for those debts, at least for its labor-protection obligations. Cases where no such nexus was shown, and which hold merely that Amtrak is not generally an agency or instrumentality of the United States, are therefore readily distinguishable.[39]

Yours very truly,

COVINGTON & BURLING,
By BRICE M. CLAGETT.

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[35] See the Supreme Court's recent decisions in Blum V. Yaretsky, supra; Rendell-Baker v. Kohn, supra.

[36] See First National City Bank v. Banco para el Comercio Exterior de Cuba, 103 S. Ct. 2591 (1983); Cherry Cotton Mills, Inc. v. United States, 327 U.S. 536 (1946) (Reconstruction Finance Corporation); Breitbeck v. United States, 550 F.2d 556 (Ct. Cl. 1974) (Saint Lawrence Seaway Development Corporation); Banco Nacional de Cuba v. First National City Bank, 478 F.2d 191 (2d Cir. 1973); John Morrell & Co. v. United States, 89 Ct. Cl. 167 (1939) (Federal Surplus Relief Corporation); Skinner & Eddy Corp. v. United States, 58 Ct. Cl. 663 (1923) (U.S. Emergency Fleet Corporation); Electronic Data Systems Corp. Iran v. Social Security Organization of the Government of Iran, CA3-79-218-F (N.D. Tex. May 2, 1980), reprinted in Iranian Assets Litigation Reporter 848 (1980), affirmed and judgment suspended, 651 F.2d 1007 (5th Cir. 1981); Westland Helicopters Ltd. v. Arab Organization for Industrialization, 23 I.L.M. 1071 (I.C.C. Ct. Arb. 1984); see also American International Group v. Iran, 493 F. Supp. 522, 523, 526 (D.D.C. 1980), remanded on other grounds, 657 F.2d 430 (D.C. Cir. 1981); Ayer v. Comm'r of Administration, 165 N.E.2d 885 (Mass. 1960); Stoke, "Some Aspects of the Legal Status of Federal Corporations," 27 Geo. L.J. 1 (1938).

[37] Abbott v. United States, 112 F. Supp. 801, 804 (Ct. Cl. 1953).

[38] See, e.g., Anderson v. National Railroad Passenger Corp., supra; Marcucci v. National Railroad Passenger Corp., supra. The Marcucci court found that the provisions of RPSA § 301, 45 U.S.C. § 541, that Amtrak "is not an agency or establishment of the United States government" sheds little light on the state action issue." 589 F. Supp. at 727 n.3.

[39] E.g., Anderson v. National Railroad Passenger Corp., supra; Ehm v. National Railroad Passenger Corp., 732 F.2d 1250 (5th Cir. 1984); Marcucci v. National Railroad Passenger Corp., supra; Kimbrough v. National Railroad Passenger Corp., 549 F. Supp. 169 (M.D. Ala. 1982); Senter v. Amtrak, 540 F. Supp. 557 (D.N.J. 1982).

Senator PACKWOOD. Now we will take Mr. Norman Sherlock, representing the American Bus Association.

[Pause.]

Senator PACKWOOD. Please wait just a minute until the people who are leaving can exit the room.

[Pause.]

Senator PACKWOOD. Would those who are conversing move out into the hallway, please.

Go ahead, Mr. Sherlock. Your entire statement will be in the record and I would encourage you to abbreviate your remarks.

STATEMENT OF NORMAN R. SHERLOCK, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN BUS ASSOCIATION; ACCOMPANIED BY THEODORE C. KNAPPEN, SENIOR VICE PRESIDENT, TRAILWAYS CORP.

Mr. SHERLOCK. Thank you, Mr. Chairman.

With me is Mr. Ted Knappen, senior vice president of Trailways, who has done a lot of work on analyzing rates and routes and the capacity of the bus system to respond in the event of Amtrak's elimination. He will be available for questioning by the committee.

The outcome of this debate on Amtrak is of pivotal importance to the bus industry. Of course, the issue is not solely that of bus versus t ins, but a far larger one of our national spending priorities as well. And at a time when some very difficult decisions are being looked at which affect the elderly, education, health care, and other human needs, one could easily think of places where nearly $700 million a year, $8 billion or more over the next decade, can be better spent than on Amtrak.

At the same time, the bus industry has a unique position in this debate because the massive subsidies to Amtrak have hurt us badly. Now, we are not the only ones saying that. It has been substantiated and reflected in a wide array of Government studies: The Office of Management and Budget, Congressional Budget Office, General Accounting Office, Department of Transportation, Interstate Commerce Commission, and the National Transportation Policy Study Commission, all of these other studies on the table as well.

The question is not whether Amtrak subsidies have hurt the bus industry, but how, to what degree, and with what results.

Amtrak began in 1971. The industry was then serving 17,500 points and was relatively profitable. Then Amtrak rates, made possible by the massive subsidy, began to come down on top of the industry. Rather than setting fares to cover costs and eliminate subsidy, Amtrak implemented a marketing strategy to maximize ridership and used the subsidy to cut fares to a level at or below bus rates.

So when you see this kind of ad [indicating], which is current today, it says: "See almost everything for next to nothing" on Amtrak, that reflects a continuation of a longstanding strategy. It allows a passenger to go from Boston to Miami for about 4.1 cents a mile, while the cost of Amtrak operating that is 33 cents a mile.

The result of all of this is predictable. Amtrak has diverted passengers from bus companies and continues to do so today. At the

same time, it has deprived bus companies of considerable revenue by depressing our rates and preventing bus companies from making normal fare adjustments. There is no doubt about this.

By 1978, Amtrak one-way fares were 1.1 percent above the bus, where it had been a 25.9-percent difference. Today Amtrak's subsidy is more than the bus fare on almost every route.

The diversion of passengers is not imagined, either. Government studies confirm it. So do Amtrak's own surveys, one showing that 32 percent of Northeast corridor passengers would go by bus if not for Amtrak, outside the corridor 25 percent.

Quite simply, Amtrak subsidies have taken from us our natural competitive market advantage—low but profitable rates resulting from economical operations. The impact has been heavy. The statistics of a GAO study indicate the damage to be in the neighborhood of $60 to $100 million a year.

Now, how are all the results of this reflected? First of all, the bus industry's financial conditions has deteriorated. In 1970, the industry made $89.2 million. Class I carriers, who are the most affected by Amtrak, accounted for $82.7 million of that amount. By 1983, the situation had worsened so that class I carriers went into the red $5.7 million.

The second result, reduced operations. There were 400 companies in scheduled service in 1970, today just 233. In the first 5 years of Amtrak service, bus passenger miles dropped 26 percent in the corridor and 9 percent in the rest of the country. From 1971 to 1984, the Northeast corridor bus schedules have dropped 46 percent.

The third result, job losses. In 1970, class I carriers employed 34,383 people. Today it is down to 24,000. So when we talk about people who might suffer as a result of cutbacks, we would ask this committee to think too of the employees of the bus companies, and we cannot give them and never have been able to give them 6 years severance when Amtrak hurts our service.

The fourth result of Amtrak subsidies, reduction of communities served by bus. In the years of Amtrak service, 7,700 communities have lost bus service.

All these things reflect the impact, directly or indirectly, that the huge subsidies have had on the bus industry. Given this and other considerations, there is ample reason to eliminate this distortion in the marketplace now. The country will not lose a significant transportation service, because that is not what Amtrak provides. There is both alternative air and bus service on most Amtrak routes and at least alternative bus service on every route.

Amtrak recently issued a list of 79 communities which it claims would be without any transportation. That is not so. In fact, many of the points listed are suburban communities which are within large metropolitan areas which have very extensive transportation. A local example would be Rockville and Gaithersburg.

Many are small towns close to or adjoining small towns which have bus service. An example of that would be South Portsmouth, KY, which is right across the river from Portsmouth, OH.

Of the entire 79 points listed, Amtrak names only three communities, with a total of 2,836 people, that are more than 30 miles from alternative bus service. And to absolutely assure mobility everywhere, I have publicly pledged that we will provide alternative

adequate bus service at any point if Amtrak subsidies are eliminated. There will be no problem.

Mr. Chairman, the test of a service is in the marketplace, the willingness of people to use it and to pay for it. Amtrak does not meet that test. The simple fact is that, in spite of massive subsidy, in spite of new equipment, in spite of better management, all the things that were said would turn things around in the past, Amtrak does not provide a significant service today.

It cannot survive in the competitive marketplace and its ridership is not significant in number. It has actually declined over recent years. Despite rock bottom, virtually giveaway fares, over 99 percent of intercity travelers do not use Amtrak, and the future outlook is no better.

We believe it is time to act now to correct this imbalance in transportation policy whereby bus companies' own tax dollars are being used to put us out of business, and to decide now to save millions and billions of dollars by eliminating the unnecessary and wasteful subsidy of the program of Amtrak.

Thank you, Mr. Chairman.

Senator PACKWOOD. Give me that pledge again that you stated?

Mr. SHERLOCK. I have pledged publicly that we would provide adequate alternative service to any point or community that is disadvantaged or has no service if Amtrak subsidies are eliminated.

Senator PACKWOOD. How many communities do you estimate that would be if Amtrak totally stopped running?

Mr. SHERLOCK. Do you want to take that, Ted? Ted has done an analysis, and there is the map that is also with our testimony, which you might want to refer to.

Mr. KNAPPEN. There are four communities that are more than 20 miles from alternative bus service that are now served by Amtrak. Certainly we would expect to pick up those four. We would have to look at the other ones in rural areas.

Senator PACKWOOD. But you say you will run a bus—if the train goes through a town or what you call close to the town—where you can get to it? If you do not have a bus route there now, you will establish one?

Mr. KNAPPEN. Yes, sir.

Senator PACKWOOD. I have no other questions.

Senator Exon.

Senator EXON. Mr. Chairman, thank you very much.

Gentlemen, I was very interested in your testimony. Certainly if I had to measure it in terms of what I think is best for America as a whole and particularly rural America, you know, if I had a choice between a totally healthy bus service and no Amtrak, you know, it would be better for my State if we had a totally healthy bus service.

But the facts of the matter are, as you well know, that we do not have a healthy bus service in Nebraska today. In major communities yes, in small communities no. I do not know whether you in your capacity serve a great number of small cities or not. Probably the answer is no.

The statistics that you gave with regard to what happened to the bus companies were alarming to me, because I think we have to have an overall transportation system and I was somewhat

alarmed at those. You cited those statistics, and I took it that you were indicating that the relatively tough time that you have experienced in the last few years basically was as a result of Amtrak competition and Amtrak competition only.

Is it not true that at least a portion of that decline in your revenues has been through deregulation of the airlines, and promotion of the airlines' scheduling, and significant reduction in the fares of airlines? Is that factored in there or not?

Mr. SHERLOCK. You have to take a look at the total picture and not just the last few years, obviously, as Amtrak goes back 14 years in our history. Nebraska, Senator, is suffering in terms of diminished bus service from the same phenomenon that happens in other parts of the country, which is a consequence of an imbalanced transportation policy that does things like pumping massive subsidies into our competitors.

The fact is that Amtrak has been found by the General Accounting Office statistics to impact somewhere in the neighborhood of $60 to $100 million a year. When you have those kinds of impacts in an industry that is as small as this industry, you cannot maintain the pervasive network of service in the very fragile and thin routes that stretch into rural America.

At the same time, a more recent phenomenon is the impact of the local service carriers and their very low rates on many of our routes. In fact, both of those things hurt us. This is simply, in terms of the airlines in recent years, just one more nail in our coffin.

Senator EXON. Specifically, Mr. Sherlock, if you have the information available to you, let us take a look at Nebraska, at a rural State like Nebraska. You are not saying, are you, that the decline in the quality, if there is any service at all—and in many areas there is no service at all today—by bus, or Amtrak, or airplane, or anything else. You are not saying in a State like Nebraska that Amtrak has had a significant adverse impact on the buses, are you?

Mr. SHERLOCK. Yes; I would have to say that it has. Let me turn that over to Ted Knappen, who is from Trailways. They have an extensive national system and they have Northeast corridor service. They can explain to you how that ripple effect takes place.

Mr. KNAPPEN. I think Nebraska is a good example of that. Our route through the State is directly competitive with Amtrak, Omaha, Lincoln, Hastings, McCook, and then on to Denver. We have gradually reduced service on the trunk route over the years, as we have on most of our trunk routes nationwide.

What you do is you break connections with the rural feeder routes. As you know, Senator, those feeder routes require both overhead traffic and local traffic in order to survive. So yes, what happens is you reduce service on the trunk routes, like Omaha, Lincoln, and Hastings. The indirect effect is that you ultimately end up eliminating entirely service on the rural feeder routes into those trunk routes, and that is what has happened in Nebraska. In fact, that is what has happened nationwide.

Senator EXON. You are certainly familiar with the Amtrak schedule in Nebraska. Are you telling me that significantly more people are taking the Amtrak service from Lincoln, NE, when they

have to get on at 1 or 2 o'clock in the morning, to go to McCook, NE?

Mr. KNAPPEN. Well, let me make two points. First, the Nebraska train is a Chicago-Los Angeles or Chicago-San Francisco train. So in terms of the reduction of service, it applies across the board from Chicago all the way to the coast.

Senator EXON. I am talking about Nebraska.

Mr. KNAPPEN. Well, even in terms of the rates, yes. When you get on the train at Omaha and go to Los Angeles round trip with one stopover at an intermediate point for $200, and that is substantially less than the busfare, we just cannot compete with that.

Yes, sir, we would lose traffic to Amtrak, no question about it.

Senator EXON. One of the things you are saying, then—and I am not sure I got my question answered, Mr. Sherlock, with regard to whether you factored into the declining revenues from bus service the increased competition from the airlines, and I would like to have that answered.

But, second, I would suggest that what you are saying is that you feel because of the subsidies there has been unfair reduction or holding down of rates. Basically, according to the advertisements you held up, you know, Amtrak is almost advertising, come travel with us because we are cheaper. That is one of your main points in opposition to the subsidy, is that correct?

Mr. SHERLOCK. Well, I certainly factored in my estimate of damage to the bus industry as a general statement the fact that it has been indicated by statistics and Government studies that somewhere $60 to $100 million in revenue is taken from the bus industry by Amtrak each year. So that certainly is in there.

It is unquestioned that Amtrak's policy has been to maximize ridership rather than try to eliminate subsidy, and we cannot compete against open-ended subsidies of the kind that come from the Federal level and that come right down on our local rates at this point.

What this committee should be thinking about, it seems to me, is how each mode of transportation stands in the marketplace and give us all equal footing. We will certainly do well in that particular environment.

Senator EXON. Let me ask you this specific question. I am familiar with the route that you talked about where you are in competition across southern Nebraska on the way out to Denver. Have not your ridership and revenues also declined significantly in Nebraska where you do not have competition from Amtrak, such as the route from Omaha to Grand Island, North Platte, Scott's Bluff, or Omaha to South Sioux City, or Omaha to North Fork, Nebraska?

Have not your revenues declined on those routes, or have not other companies which serve those routes had their revenues decline significantly, even though they do not have competition from Amtrak?

Mr. SHERLOCK. Well, again, you are referring to the ripple effect. I would like Ted to explain just again how that works.

Mr. KNAPPEN. Well, I think anything that connects at Omaha is going to have been affected by the reduction in trunk line service through Omaha. I do not have the specific figures in front of me, but I would be happy to supply them for you.

Senator EXON. I would like to have them, if you would get them for me.

Mr. KNAPPEN. Sure.

Senator EXON. Thank you, Mr. Chairman.

Thank you, gentlemen.

Senator PACKWOOD. Thank you very much, gentlemen.

[The statement follows:]

STATEMENT OF NORMAN R. SHERLOCK, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN BUS ASSOCIATION

Mr. Chairman and Members of the Subcommittee: My name is Norman R. Sherlock. I am President and Chief Executive Officer of the American Bus Association, which has a total membership of 3,500.

This includes 1,050 bus and tour operator members, who provide intercity, charter and tour, and commuter bus service. Our average member is a small business person who owns, and in many cases started, his or her own company which generates less than $1.3 million in gross revenue annually.

We appreciate the opportunity to testify today because the bus company members of the American Bus Association have been severely hurt by Amtrak. The time has come to terminate Amtrak subsidies. Despite massive federal subsidy over the last fourteen years, Amtrak does not provide an essential public service. In fact, it is now clear that those fourteen years of federal subsidy have been counter-productive in that they have contributed to the loss of all transportation service in thousands of communities nationwide. The time has come to recognize that the Amtrak subsidy is both unnecessary and inequitable, and to end it.

AMTRAK SERVICE IS NOT ESSENTIAL

In these times of severe budgetary limitations, no program should be considered for direct federal subsidy unless there is a clear public need for that program. At a time when there is serious talk about cutting social security benefits and programs such as farm subsidies, medical research, student aid, small business assistance, rural housing, and the Job Corps are facing either termination or substantial reduction, it is clear that the federal government can only afford to fund those programs where there is a compelling public need for the services provided by that program.

Amtrak is not such a program. Amtrak is not an essential public service because there is both alternative air and bus service on most Amtrak routes and there is at least alternative bus service on every route.

I have attached to each copy of my statement a map graphically demonstrating this fact. It is the nationwide Amtrak route map taken directly from the latest Amtrak national timetable overlaid with the corresponding Trailways routes and when there is no Trailways service, then with other bus carrier service.

This map shows conclusively that there simply is not any Amtrak route anywhere in the country that is not covered by adequate, alternative bus service. Furthermore, in the unlikely event that a community should lose Amtrak service because of the termination of Amtrak subsidies and not have an adequate public transportation alternative, I have pledged that the bus industry will provide that alternative, and I hereby reiterate that pledge.

Not only is it true that Amtrak does not provide an essential public service, it is also true that outside of the Northeast Corridor, Amtrak hardly provides any public service at all. Nationwide Amtrak provides service to fewer than 500 communities, while the intercity bus serves nearly 10,000 and the airlines serve approximately 1,000.

The only serious attempt by Amtrak to refute the argument that Amtrak is not an essential public service that I have seen is a list of 79 communities that Amtrak claims would be without alternative bus service if Amtrak service ended. I have had each point on that list analyzed, and that analysis shows that the Amtrak list has no merit. Many of the points listed are suburban communities within large metropolitan areas having extensive alternative transportation services. For example, the Washington suburbs of Rockville and Gaithersburg, Maryland are included as are the Philadelphia suburbs of Ardmore, Bryn Mawr, Wayne and Paoli, Pennsylvania.

Many others are small towns that are very close to, or adjoining, other small towns with bus service. These include towns such as South Portsmouth, Kentucky, which is right across the river from Portsmouth, Ohio; West Quincy, Missouri, which is two miles west of Quincy, Illinois; Monroe, Virginia, which is six miles

from downtown Lynchburg and is the "railyard" for Lynchburg, and White Salmon, Washington, which is three miles north of Hood River, Oregon.

Of the entire 79 points, Amtrak names only three communities with a total reported population of 2,836 people that are more than 30 miles from alternative bus service. One of these communities, Belton, Montana, is so small that it is not listed in Rand McNally so we are not sure of its exact location or population. The other two, Browning, Montana, and Delta, Utah, are both 35 miles from alternative bus service.

In sum, Amtrak's own figures show that in the entire Nation, there are only three communities with a total population of under 3,000 that would be more than 30 miles from alternative transportation if Amtrak service ceased. Thus, Amtrak clearly is not providing an essential public service in rural areas. In fact, as we now show, Amtrak subsidies have had a very negative effect on our rural transportation system.

While there are 30 trains a day running between New York and Washington, those few communities in the rest of the country that have any Amtrak service at all generally just have one round trip a day and much of that service is in the middle of the night. For example, there are 7 stops in Kansas on the route of the Southwest Chief, the Chicago to Los Angeles train. The stops in the direction of Los Angeles are between 1:10 am and 7:22 am and in the direction of Chicago from 11:40 pm to 5:52 am. In fact, in many cases communities do not even have daily service. The Sunset Limited, the New Orleans to Los Angeles train, and the Eagle, the Chicago to San Antonia train, are examples of trains that are scheduled three times per week.

This brief survey shows that the taxpayers in the rest of the country are paying for an Amtrak subsidy that provides a substantial benefit only to those several cities lying directly on the Northeast Corridor tracks. Statistics presented by Amtrak itself underscore this point. While less than 3% of the Amtrak route miles are in the Northeast Corridor, these route miles require 37% of the requested Amtrak subsidy to operate.[1]

It is difficult to see how the $250 million a year in subsidy that it takes to operate the Northeast Corridor can be marginally justified, much less be classified as essential. Alternate transportation is extensive. There are 41 round trip intercity bus schedules between Washington and New York daily; 36 daily between Philadelphia and New York and 26 daily between Boston and New York. Of course, there is also extensive air service among the Corridor airports. Moreover, the Corridor passengers that are being subsidized are, to use Amtrak's words, "generally oriented towards business . . . and so are not too dissimilar in their breakdown of income and age to the people who fly".[2]

How can anyone seriously suggest that federal transportation subsidies to these people are an essential national priority?

AMTRAK SUBSIDIES HAVE BEEN A MAJOR CAUSE IN THE DECLINE IN INTERCITY BUS SERVICE

"What changes in government policy would arrest the decline of the intercity bus industry? Certainly a reassessment of the costs and benefits of Amtrak subsidies is an essential first step . . . Elimination or reduction of subsidies would be consistent with the trend toward reducing the role of government in the transportation sector as well as promoting intermodal equity".[3]

This Transportation Research Forum article hits the nail on the head. The decline in intercity bus service is directly related to the enormous Amtrak subsidy of the last 14 years and if the present inequitable treatment continues, further decline is inevitable.

Amtrak subsidies started in 1971; intercity buses were then serving 17,500 communities nationwide.[4] By July 1984 only 9,800 communities retained bus service.[5] This means that 7,700 communities have lost all bus service since the Amtrak subsidies started, and in the vast majority of these cases, if means that these communities are now cut off from all public transportation service.

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[1] See Claytor testimony, Transportation Subcommittee, Senate Appropriations Committee, March 19, 1985 at pages 6-7.

[2] Claytor March 19 testimony at page 11.

[3] *Babcock and German, A Model of the Demand for Intercity Bus Travel*, Transportation Research Forum at pages 191-192.

[4] Index to July 1971 Russells Guide.

[5] Index to July 1974 Russells Guide.

Although there have been other contributing factors such as airline deregulation, it is inescapable that the Amtrak subsidies have been a cause of this decline. The reason for this is simple. Regular route bus service is not fast, nor is it glamorous. It has one major market advantage: low operating costs producing low fares.

The 1984 bus operating cost was 8.4 cents per passenger mile; Amtrak's 1984—operating cost was four times greater—33.4 cents per passenger mile. Yet Amtrak subsidies have enabled it to take away the inherent market advantage of the bus by keeping many Amtrak fares at or below bus fares even though its costs are much higher. The subsidies are simply used to make up the difference.

From the very beginning, Amtrak has used its subsidies to lower its prices to bus levels and thus to divert bus passengers. When Amtrak was created in 1971, two of its earliest marketing actions were to reduce the existing rail fare by 22 percent between New York and Boston and by 13 percent between New York and Washington. In both cases, this changed the rail fare from higher than the bus fare, to lower than the bus fare.[6]

Amtrak's Corridor pricing policies stayed the same throughout the 70's, and their rates stayed at or below bus rates even though their costs were far higher.[7] This competition was devastating to the bus carriers in the Northeast Corridor where the competition was hourly and the Amtrak running times were the same or less than bus. In Amtrak's first five years of operation alone, bus passenger miles decreased by 26 percent, while in the rest of the country, where Amtrak competition was not as intense, the decline was only 9 percent.

Amtrak's policy of pricing at or below bus prices spread nationwide in the seventies and is succinctly described in the Transportation Research Forum article: "From 1960 to 1970, rail prices declined only 2.25 percent relative to bus fares. However, with the advent of Amtrak the relative decline in rail prices has been dramatic. During the 1972-82 period, rail prices fell 17.3 percent and since 1979 average rail and bus fares have been nearly identical."[8]

This policy has culminated in the first several years in Amtrak's "All Aboard America" fare, which is described in the April 14, 1985 Washington Post ad. The slogan, "See Almost Everything For Next To Nothing" describes the program perfectly. The fare, which covers all points nationwide, enables passengers to move anywhere within one of three regions round trip for $125 or less, and to move anywhere within two regions for $200 or less.

This means, for example, a passenger can go from Boston to Miami round trip for $125. Since the round trip distance is 3,060 miles, this fare yields 4.1 cents per passenger mile, which is less than half of the systemwide bus costs and eight times less than the systemwide Amtrak costs. Or a passenger could go from Minneapolis to New Orleans, a round trip of 2,500 miles on this $125 fare. This computes to 5 cents per passenger mile, which is roughly 60 percent of the per mile bus cost of operations and almost seven times less than the Amtrak cost of operation.

Unlike airline deep discount fares, these Amtrak fares cover every point in their entire system nationwide and contain few restrictions. Thus, they have more comprehensive competitive effect on bus carriers than the selective airline discounts.

The effect of Amtrak's artificially low rate levels are obvious. They have caused a diversion of passengers.

In the Northeast Corridor, even though there has not been a total abandonment of bus service, Amtrak has had a very negative effect. From 1971 to 1984, intercity bus schedules in the Northeast Corridor were reduced by 46 percent.

Although increased air competition has had some effect in recent years, the fact is that the Northeast Corridor decline has been rather steady over this 13 year span with almost half of the decline occurring before 1978 when airline deregulation was enacted. It is only Amtrak that we compete with on a downtown to downtown basis throughout the Corridor, and it is unquestionably the Amtrak competition that has primarily caused the bus decline in the Corridor.

The Commerce Department's Census of Transportation compares passengers of various transportation modes demographically. The latest available census demonstrates that bus passengers are substantially poorer than Amtrak passengers, less educated, more likely to be minorities, and more likely to be the very young or the elderly.[9] This disparity is particularly pronounced in the Corridor where the

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[6] Report of the Comptroller General, *Amtrak's Economic Impact on the Intercity Bus Industry* at pages 29-32.

[7] Report of the Comptroller General at pages 30 and 32.

[8] Babcock and German at page 189.

[9] U.S. Department of Commerce, Bureau of the Census, *1977 Census of Transportation, Report TC77-N-2*, pages 35-39.

Amtrak passengers are "generally oriented towards business." Thus, the bottom line in the Corridor is that these business passenger subsidies have led directly to a severe decline in the transportation service most used by those who have a greater need for public transportation.

It has been suggested that although Amtrak goes head to head with the bus industry in the Northeast Corridor, it has only limited service in the rest of the country and thus has had only a limited nationwide effect on buses. Although the damaging effect of hourly, side by side competition in the Corridor is the most obvious, we believe that the real effect is nationwide.

This is so for several reasons. First, even though Amtrak service is far less frequent outside of the Corridor, it does connect most major cities and thus the artificially low fares such as the "All Aboard America" fare, are available to most of the nation's passengers.

Second, before 1971 the bus industry's Northeast Corridor service was quite profitable since that is where the highest density of people were. Now, thanks to Amtrak, that Corridor service is unprofitable and we are regularly reducing Corridor schedules. This starts a snowball effect with the reduced Corridor schedules providing poor connections into and out of the Corridor, which in turn causes a reduction in overhead traffic and ultimately a reduction or elimination of service outside of the Corridor.

Amtrak's own statistics help to demonstrate the fact that its negative effect on the bus industry has been nationwide. The 1982 Congressional Budget Office study, Federal Subsidies for Rail Passenger Service; An Assessment of Amtrak, referred to Amtrak's own 1979 passenger survey that found: ". . . if Amtrak service were not available 48 percent of Amtrak's passengers on the Northeast Corridor would use cars, about 32 percent buses, 16 percent planes, and the remaining 4 percent would not travel. On Amtrak's non-Northeast Corridor routes, 46 percent of the passengers reported that they would otherwise take cars, 25 percent buses, 24 percent planes, and about 6 percent would not travel." [10]

Since intercity bus provides less than 3 percent of all intercity transportation service, it is very significant that 32 percent of Amtrak's Northeast Corridor passengers are diverted from bus and 25% of its non-Northeast passengers are diverted from bus. These figures show that Amtrak is diverting a much higher percentage of bus users than that diverted from any other mode. It also means that this phenomenon is true both within and without the Corridor. Although this 1979 survey is the latest public survey we have, the percentage of bus passenger diversion may be even higher today given the easing of the fuel crisis and airline deregulation, which would make diversion from air and auto more difficult.

AMTRAK SUBSIDIES HAVE PRODUCED AN UNBALANCED AND INEQUITABLE NATIONAL TRANSPORTATION POLICY

The damage that has been inflicted on bus service by Amtrak is the result of massive, inequitable subsidies that have created an unbalanced transportation policy. This policy favors the relatively affluent business and leisure time passenger to the detriment of the less affluent and the small town passengers that rely on bus service.

The 1982 CBO Study, in a section entitled "Considerations of Equity with Other Modes," analyzed carefully the argument that Amtrak subsidies simply put it on an equal footing with other modes and then rejected it totally, finding that "rail passenger service receives exceptionally large federal subsidies, however, relative to the traffic volume". [11]

The CBO determined that Amtrak, although carrying less than 1 percent of all intercity passenger traffic, received 31 percent of all net federal transportation subsidies. From its analysis, the study concluded that "expressed as aid per passenger mile, the rail passenger subsidy is much higher than for any other intercity passenger mode." This conclusion was illustrated by the following bar graph:

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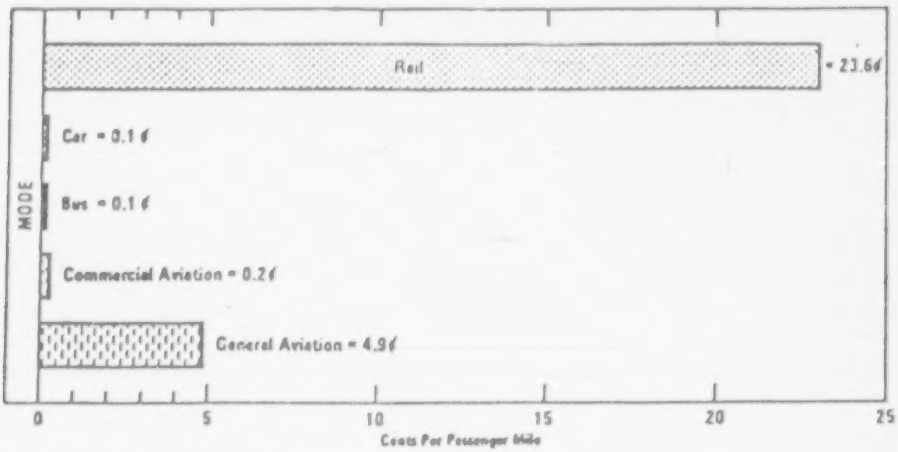
[10] Congressional Budget Office, *Federal Subsidies for Rail Passenger Service; An Assessment of Amtrak*, page 14, footnote 4.

[11] CBO Study at page 10.

Federal Transportation Subsidies Per Passenger Mile
Net of Revenues from User Fees, by Mode (Fiscal Year 1980)



SOURCE: Congressional Budget Office.
NOTE: "Car" category includes autos, motorcycles, pickups, and vans; excludes buses.

Since the passenger mile is the basic measure of utilization of the transportation mode, the graph indicates that from a public utilization standpoint, the Amtrak subsidy is 236 times greater than the bus subsidy. The subsidy comparison has changed very little in the past 4 years. In 1984, Amtrak's subsidy was 26.7 cents per passenger mile, 242 times greater than the bus industry's one tenth of a cent per passenger mile subsidy.

Moreover, even if one ignores the fact that intercity buses carry many more people than Amtrak, the subsidy comparison is still enormously one-sided. In fiscal year 1984, Amtrak received federal operating payments of $696 million. This compares with the estimated bus subsidy from its federal fuel and tire tax partial exemption of $28 million. Thus, even without taking into account passenger utilization of the two modes, Amtrak's fiscal FY 1984 subsidy was 25 times greater than intercity bus.

After 14 years of this kind of subsidy disparity between rail and bus, it is easy to see why bus service has disappeared from 7,700 communities and has been virtually cut in half in the Northeast Corridor. It is also easy to see that unless radical action is taken, these trends will continue.

Amtrak's present management appears to have done everything possible to improve productivity and the billions of dollars spent on a new rail fleet in the last few years must have had a positive effect on maintenance costs. Yet the percentage of its costs that Amtrak recovered from revenues in FY 1984 (56 percent) was the same as it was 12 years ago in Amtrak's second full year of operation.[12]

If the Federal government continues to fund these cost-revenue gaps, it is clear that the ongoing disparity in treatment between rail and bus will cause continuing declines in bus service to the point where the present regular route bus system is likely to disappear.

What are the consequences of such a continuing decline? First, the backbone of the nation's rural transportation system will be broken. Despite all the cutbacks, the bus industry still serves 9,800 communities nationwide. If present trends continue, most of these communities will be without any bus service within a decade. Since these are generally small towns that cannot be economically served by any other transportation mode, this means that they will be completely cut off from any form of public transportation.

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[12] Compare Amtrak 1984 Annual Report at page 5 with Comptroller General Report at page 15.

Second, the Amtrak subsidies to the relatively affluent will continue to erode, and perhaps eliminate, adequate transportation alternatives for the poor. Bus service in the Corridor has already been reduced by 46 percent; since that service is now unprofitable, it is difficult to see how it can continue under present circumstances. The CBO Study addressed this problem as follows: "In short, subsidies to Amtrak generally aid higher-income groups as do subsidies for the air and auto modes. If transportation subsidies are to be channeled specifically toward low-income people, aiding intercity bus service would be more effective than aid to Amtrak." [13]

We are not asking for subsidies to be transferred from Amtrak to bus; we do believe, however, that reduction of Amtrak subsidies at least to the minimal level of bus subsidies is needed to ensure adequate transportation for the poor.

Third, many jobs will be lost. Since Amtrak's 1971 inception, the bus industry has lost 5,500 jobs. There are another 24,200 jobs that are attributable to regular route bus service. If present subsidy trends continue, these jobs will be severely threatened.

We believe that the negative consequences of maintaining the unbalanced transportation system that has been created by the inequitable Amtrak subsidies are so great that immediate action must be taken to end those subsidies.

THERE IS NO SUBSTANCE TO THE ARGUMENT THAT AN AMTRAK SHUTDOWN WOULD BE TOO COSTLY

Although the facts show that termination of Amtrak subsidies would not leave anyone without adequate transportation alternatives and would provide equity to those who ride the buses, Amtrak's advocates have suggested that the subsidies should continue because it would be too expensive to shut Amtrak down. For a variety of reasons, this last ditch argument has no merit.

First, there is at least a substantial possibility that considerable portions of the Amtrak system will continue to operate. Certainly, Amtrak would have to recover a much higher percentage of its costs through its fares and state or local governments might have to chip in, but there is a very real possibility that with a new marketing strategy, Amtrak can survive in the private sector.

But even if the termination of Amtrak subsidies should result in the termination of Amtrak services, the costs of such termination are insignificant compared to the costs of continuing to operate. Even using Amtrak's numbers that it would cost $2.1 billion over six years, these costs are far less than the cost of continued operations. The Office of Management and Budget has estimated that the subsidy costs over the next decade at present service levels would be $8 billion.

Moreover, the Amtrak numbers are incorrect. They are based on the assumption that since Amtrak is a government agency, the Federal Government is legally responsible for the Amtrak contractual obligation to pay its employees 6 years of full pay if they lose their jobs because of service termination.

Whatever merit this argument may have had when it was first made, it no longer is valid in light of the Supreme Court's just-issued opinion in *National Railroad Passenger* v *Atchison, Topeka and Santa Fe Railway Company*, Sup. Ct. No. 83-1633, March 18, 1985. There the Supreme Court held that the Federal Government is not liable for Amtrak's contracts because "the Act expressly established the Rail Passenger Services Corporation as a non-governmental entity." [14]

It may be that Congress will find that there is a moral obligation to provide for some severance benefits. But even if Congress provided for a full year of full pay, which would be very generous in the private sector, the total cost would be approximately $350 million rather than $2.1 billion. Amtrak is carrying more than $3 billion of real property and equipment on its books.[15] Even under the most conservative of estimates, sale of these assets would more than cover employee termination costs.

Amtrak has also suggested that the social costs of job losses on termination of services would be too great. Certainly subsidy termination would threaten Amtrak jobs, but even if the ending of Amtrak subsidies caused a total termination of service, the loss of Amtrak jobs (21,000) would be less than the loss of bus industry jobs if continuing Amtrak subsidies cause an elimination of regular route bus service (29,000). Moreover, bus industry employees losing their jobs under such circumstances have no change of getting any federally subsidized severance pay.

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[13] CBO Study at page 12.
[14] Slip Opinion at page 15.
[15] FY 1984 Amtrak Annual Report at page 20.

Another social cost of termination that has been suggested is increased airport and highway congestion because of the 17,500 passengers a day carried among the cities of Washington, Baltimore, Wilmington, Philadelphia, and New York.

Using Amtrak's own numbers, it can be assumed that 32 percent of these passengers would go by bus. These 5,500 people could easily be accommodated on an extra 100 buses, which are already available in the bus lines' northeastern charter fleets. This number of extra buses in the Corridor would not even be noticed.

Assuming 48 percent go by car, and assuming the worst case, that each passenger drives alone in his or her car, this would only mean 8,400 additional cars split among all of these cities and the various connecting roads between these cities. This figure spread throughout the Corridor is inconsequential. 16 percent, or 2,800, would go by air. It is difficult to see how this could result in more than an additional 12 flights split up among the three New York area and three Washington area airports primarily.

The bottom line on this argument is that even if all Northeast Corridor Amtrak service ceased, the diversion of passengers to other modes would have a very limited effect.

One final Northeast Corridor argument that has been advanced is that Amtrak's cost of handling the freight and commuter operations of other railroads and transit agencies is approximately $200 million a year, while those companies and agencies only pay $50 million. If this is the case, then the $150 million gap would have to be filled by the transit agencies and the freight railroads involved.

A very good argument can be made that this is where the cost should lie anyway, but even if this is viewed as a regional cost that the federal government should participate in, the cost of doing so would be relatively insignificant. For example, if the costs were shared on a 50/50 basis, the federal share would be $75 million or roughly 10 percent of the present Amtrak subsidy, while the remaining $75 million would be split up among the numerous public agencies and private companies using the Corridor. Necessary commuter services can be successfully and equitably maintained without continuing the Amtrak subsidy.

Senator PACKWOOD. Next we will hear from Ole Berge, the chairman of the Railway Labor Executives Association.

Good morning, gentlemen. Go right ahead, Mr. Berge. Your statement in its entirety will be in the record.

STATEMENT OF OLE BERGE, CHAIRMAN, RAILWAY LABOR EXECUTIVES ASSOCIATION, ACCOMPANIED BY WILLIAM G. MAHONEY, COUNSEL

Mr. BERGE. Thank you. My name is Ole Berge. I am chairman of the Railway Labor Executives Association and president of the Brotherhood of Maintenance of Way Employees. With me today is Mr. Bill Mahoney, who is counsel for the Railway Labor Executives Association.

As the members of this committee well know, Amtrak owes its existence in very great part to the railroad labor unions and their members, who consistently and continually fought for Amtrak's survival before the Congress and who have provided Amtrak millions and millions of dollars by many economic sacrifices in their collective bargaining agreements.

Amtrak has proved it has been the investment made in it by the employees and the unions and the taxpayers. It has surpassed expectations in its performance over the past few years, and its future looks bright indeed, unless of course it is annihilated as proposed by the administration.

Many witnesses will cover the serious adverse public effects caused by the elimination of rail passenger service in the United States, such as the loss to many communities of their sole means of public transportation, the heavy impact upon low income and elderly passengers, national defense implications, the enormous cap-

ital waste involved, and the long-term adverse effect upon the overall quality of life in this Nation.

The RLEA would like to focus for a moment upon the effects which elimination of Amtrak will have upon railroad employees. Some 21,000 Amtrak employees will be jobless on October 1, 1985, or very soon after that. Another 4,200 employees of other railroads who perform service for Amtrak would also lose their jobs.

The loss of these employees will remove some $524 million from the revenue of those 44 States in which they work and live, as much as $85.8 million from Pennsylvania, $56.7 million from Maryland, $52 million from New Jersey, and so on.

The removal of this large number of employes from the payroll of the railroad industry will have a significant adverse impact upon the railroad retirement system, which the Congress very recently and successfully placed in a financially viable, but at the same time financially delicate, condition. It will also severely burden the railroad unemployment system, which Congress now has under legislative consideration.

I will not detail the reasons which would compel the Congress to weigh heavily in its consideration of this issue the devotion, initiative, sacrifice, and hard work provided by the people of Amtrak, which have made it the success it is today and the continuing success it can be in the future. I do think, however, that a word of detail should be offered regarding the net cost to the Government of eliminating Amtrak.

The detail to which I refer is the payment of Amtrak's obligations and the obligations of the other railroads of this country to their employees and the employees of Amtrak under appendix C-1 and appendix C-2 to the agreements executed by the railroads and the Amtrak at the direction of the Congress.

Appendix C-1 is an employee protective formula which was designed by the Secretary of Labor and which applies to railroads and the employees of railroads. Appendix C-2 is a virtually identical formula which applies to Amtrak and the employees of Amtrak. Congress made these protections a condition upon the railroads' relief from responsibility for passenger service and the creation of Amtrak.

There is no question whatever that upon the discontinuance of intercity rail passenger service operated on behalf of Amtrak by employees of other railroads, that those employees must be protected by their respective railroad employers pursuant to the terms of appendix C-1. This is confirmed by the fact that the railroads would remain in existence and the employees covered by that protective agreement would be affected by a "transaction" as that term is defined by the provisions of appendix C-1, that is, a discontinuance of intercity rail passenger service.

It is also quite clear that the employees of Amtrak would be entitled to the virtually identical protections of appendix C-2 if Amtrak is eliminated in whole or in part. Amtrak would be liable to each employee affected by a transaction, that is, an individual discontinuance of intercity rail passenger service. The appendix C-2 arrangement would be in effect with the employer, Amtrak, and the employees and Amtrak would remain in existence and continue to be responsible for the application of its provisions as it is today.

In the event the railroad were to be obliterated as proposed by the administration, the protections of C-2 and probably C-1 would apply to the affected employees and the United States would be responsible, with Amtrak as its agent. For Congress to have legislated a situation which seriously affected employees, to have protected those employees affected by that legislation, and then to eliminate the jobs of those employees and the protections afforded them would be, we submit, both arbitrary and unreasonable and, for the reasons set forth in my prepared testimony, the U.S. Government would be estopped from denying liability or would be held liable as the principal for whom Amtrak was agent.

Amtrak has estimated that its liability over 6 years for total elimination of service would be in the range of $2.1 billion under appendix C-2. For the year 1986, Amtrak estimates that its liability under C-2 would be substantially greater than the 1986 Amtrak total budget request.

In addition, it is estimated that the individual railroads with whom Amtrak contracts for passenger service would have a C-1 liability in the area of $72 million in the first year and $200 million over 6 years. The total railroad and Amtrak liability, therefore, would range about $2.3 billion over 6 years.

Unlike budget cuts in other areas, the elimination of Amtrak from the Federal budget eliminates forever intercity rail passenger service in the United States. It eliminates a Federal program that has succeeded beyond the fondest expectations of its supporters and whose success has confounded its chronic perennial opponents, but they never give up.

Amtrak has provided a primary means of transportation to many millions of people and a significant alternative means of transportation to millions of others, 20 million in 1984. It is the fifth largest carrier of passengers in this country. It has received the political support of all States and financial support in excess of $100 million from a number of States.

It has invested in turn many tens of millions of dollars in some 46 States and the District of Columbia, and continually cuts its dependence upon Federal subsidy as it improves the quality and quantity of its service.

But perhaps the most significant of all aspects of the destruction of Amtrak is that it is a program in which the American taxpayer has invested almost $8 billion since 1971, and which is only now showing a return on that investment in terms of the scope, frequency, and quality of the service which it renders.

Now the administration wishes to junk that $8 billion and all of the progress that has been made and deprive this Nation, forevermore, of the possibility of intercity rail passenger service. Such an incredible proposal must be rejected summarily and in its entirety.

Thank you for this opportunity to express to you the views of rail labor on this vitally important subject.

Senator PACKWOOD. Mr. Berge, one question. This morning Senator Weicker indicated that he believes at least the passenger section of the railroads in the United States ought to be nationalized, and that we ought to forget worrying about whether it is going to run at a profit or not, that that should not be a bottom line standard, regardless of what it might have been 15 or 13 years ago.

What is your view about that?

Mr. BERGE. I agree with him. You know, throughout the world I know of no passenger service that pays its way through the fare box, and I do not think we can expect that.

Senator PACKWOOD. Thank you.

Senator Exon.

Senator EXON. Thank you, Mr. Chairman.

Mr. Berge, thank you for a very good statement, right on point. I think that it will be very helpful to us in our deliberations and in making our decisions. Can you clarify for me in a few words what effect there would be if the system is closed down as the Administration has recommended—given all of the money that we put into Amtrak, which would be wiped out and which you have to balance, of course, against the figures that Mr. Stockman gave us earlier this morning about what this is going to cost in the future. We have to recognize the fact that we would be the only industrialized Nation in the world without a rail passenger system if this takes place.

But given all that, how bad an effect would the laying off of these workers have with regard to railroad retirement? Would it have a significant impact in your opinion? Would it endanger that system all over again, after the recent steps that we have taken in the Congress to try to assure the people that had pledged and that were expecting railroad retirement? Would that impair the system significantly in the immediate future?

Mr. BERGE. It certainly would. There would be 21,000 people who would no longer be paying a tax into the retirement system. It would severely affect the RUIA, railroad unemployment insurance, which is under Congressional consideration right now, to the tune—I believe my numbers are correct—of in the neighborhood of $3 billion by the year 2000.

Senator EXON. Would it be safe to say, then, that this is possibly one more incomplete savings that would take place if we follow the advice of the President and his Budget Director, Mr. Stockman? This is undoubtedly a cost with regard to unemployment benefits that the Federal Government would have to pick up in direct subsidies to that program, rather than indirect subsidies, if you will, through the continuation of Amtrak?

Mr. BERGE. It certainly is a point that should be given serious consideration. I am pleased to hear you say that it is a cost the Government might pick up, which would, of course, save a heavier tax on the employees, who are already heavily taxed, as well as the carriers.

It would be a false savings, and this is another one of the items that would be severely impacted and that a lot of people are not giving consideration to and are just looking at the immediate savings of the appropriations to Amtrak, without looking at all of the fall-out that stems from that.

Senator EXON. My point, Mr. Berge, is, right, wrong, or indifferent, when Amtrak was placed into operation 14 years ago the Federal Government did at that time make certain commitments as to what it would do. And I would think that we would have to come to the assistance of that trust fund if it had failed basically because of a renege on a commitment by the Federal Government.

Is that a logical, non-lawyer way of looking at it?

Mr. BERGE. Yes; I would say it is. And I am certain that is the way that railroad labor would look at it, too.

Senator EXON. Thank you very much, Mr. Berge.

Thank you very much, Mr. Chairman.

Senator PACKWOOD. Gentlemen, thank you very much.

[The statement follows:]

STATEMENT OF OLE M. BERGE, CHAIRMAN, RAILWAY LABOR EXECUTIVES' ASSOCIATION

My name is Ole M. Berge. I am the Chairman of the Railway Labor Executives' Association and President of the Brotherhood of Maintenance and Way Employes. The headquarters of the RLEA is located in the Railway Labor Building, 400 First Street, N.W., Washington, D.C. Accompanying me today is Mr. William G. Mahoney, counsel to the RLEA. On behalf of the nation's railroad employees whom we represent, I would like to convey our appreciation for this opportunity to present to you our views of the current Administration proposal to obliterate forever rail passenger service in the United States.

The Railway Labor Executives' Association is an unincorporated association with which are affiliated the chief executive officers of all of the standard national and international railway labor unions in the United States.

In 1958 the passenger carrying railroads of the United States told the Congress that the individual state commissions with jurisdiction over the discontinuance of passenger trains were preventing the railroads—for purely political reasons—from removing all of the passenger trains the railroads desired to remove. The railroads admitted that those commissions granted 85 percent of their applications to discontinue passenger trains but contended that the remaining 15 percent which they denied were denied because of politics. The railroads pleaded their situation to be desperate. Congress believed them and passed the Transportation Act of 1958 which gave the railroads a virtual free hand in the downgrading and elimination of rail passenger service throughout this country. Not only was the "15 percent" immediately discontinued but over the following 12 years the remaining passenger train service in the United States was reduced by over 60 percent and virtually all the trains left in service were unfit for human occupancy.

Indeed, the railroads utilized the authority that Congress granted them to such an extent that in 1971 Congress was forced to act quickly to rescue the nation's remaining dilapidated rail passenger service. It had become clear that the railroads were going to abandon all rail passenger service in the United States as attested by their claims of a loss of some $700 million annually because of passenger service and their total neglect of every aspect of that service. The result of Congress' effort was the creation of Amtrak. However, as an ingredient in the creation of Amtrak, many more passenger trains were discontinued. Recognizing the devastating effects upon the railroad labor force of the United States of removal of all rail passenger service from the nation's railroads, Congress enacted Section 405 of the Rail Passenger Service Act to protect the interests of railroad employees affected by the institution of the Amtrak system.

As the members of this Committee well know, Amtrak owes its existence in very great part to the railroad labor unions and their members who consistently and continually have fought for Amtrak's survival before the Congress and who have provided Amtrak millions and millions of dollars by numerous and varied economic sacrifices in their collective bargaining agreements.

Amtrak has now proved its worth. It has been worth the investment made in it by the employees and the unions and the taxpayers. It has surpassed expectations in its performance over the past few years and its future looks bright indeed unless, of course, it is annihilated as proposed by the Administration.

When one examines the federal aid offered each form of passenger transportation available to the public in this nation, one is immediately struck by the reality that without massive federal aid to each mode of transportation, none could exist. Federal aid, of course, takes many forms, direct and indirect, from outright grants to tax benefits.

As noted by other witnesses before this Subcommittee, if full federal aid to the airlines, including tax deductions for business travel, were considered in determining the cost to the taxpayer of each airline passenger, one would find that cost to be about 30 percent more than the cost for each passenger riding Amtrak.

The financial and social burden to the states of eliminating the mode of transportation for 20 million of their citizens and the jobs of 25,000 people in 44 states could

not be borne by them. The Northeast Corridor, owned by Amtrak, provides the means of commuter travel for tens of thousands of people. The individual commuter authorities simply could not fill the transportation gap that would be left by the elimination of Amtrak; and, we have seen no rush of private companies to buy and operate the Northeast Corridor.

It has been estimated that commuters on the New York-Washington segment of the Corridor would have to pay an additional $164 million annually and those on the New York-Boston segment would have to pay an additional $48 million. These amounts would be in addition to the $65 million annually which they now pay Amtrak.

The Administration also plans severe cutbacks in financial aid to mass transit authorities, including, of course, those in the Northeast Corridor, consequently, there would be insufficient money to continue the commuter operation in the Northeast Corridor and it would be back to the clogged highways for hundreds of thousands of commuters from Washington to Boston with all of the environmental, health, and highway maintenance costs—all borne by the taxpayer—which that return to the highways would produce.

Other witnesses will cover the many serious public adverse effects resultant upon the elimination of rail passenger service in the United States, such as the loss to many communities of their sole means of public transportation; the heavy impact upon low income and elderly passengers; national defense implications; the enormous capital waste involved; and the long-term adverse effect upon the overall quality of life in this nation.

The RLEA would like to focus for a moment upon the effects which the elimination of Amtrak will have upon railroad employees. According to information issued by Amtrak, some 21,000 Amtrak employees would be put out of work on October 1, 1985, as well as about 4,200 employees of other railroads who perform services for Amtrak. The loss of these employees will remove some $524 million from the revenues of those 44 states in which they work and live: as much as $85.8 million from Pennsylvania; $56.7 million from New York; $55.9 million from Maryland; $52 million from New Jersey, and so on. The removal of this large number of employees from the payroll of the railroad industry will have a significant adverse impact upon the railroad retirement system which the Congress very recently and successfully strove to place in a financially viable—but at the same time financially delicate—posture. It will also seriously increase the burden on the railroad unemployment insurance system on which Congress only last year received a report from its statutorily appointed committee with recommended legislative action.

I do not intend here to detail the reasons which should compel the Congress to weigh heavily in its consideration of this issue the devotion, initiative, sacrifice and hard work, provided by the people of Amtrak which have made it the success it is today and what it can be in the future. I do think, however, that a word of detail should be offered regarding the net cost to the Government of eliminating Amtrak. The detail to which I refer is the payment of Amtrak's obligations and the obligations of the other railroads of this country to their employees under Appendix C-1 and Appendix C-2 to the agreements executed by the railroads and Amtrak at the direction of the Congress. Appendix C-1 is an employee protective formula, designed by the Secretary of Labor at the direction of the Congress, which applies to railroads and the employees of railroads and Appendix C-2 is a virtually identical formula also mandated by the Congress which applies to Amtrak and the employees of Amtrak.

There can be no question whatever that upon the discontinuance of intercity of other railroads that those employees must be protected by their respective railroad employers pursuant to the terms of Appendix C-1. This is confirmed by the fact that the railroads would remain in existence and the employees covered by that protective arrangement would be affected by a "transaction" as that term is defined by the provisions of Appendix C-1, that is, a "discontinuance of intercity rail passenger service". As noted in his March 18, 1985 letter to Chairman Danforth of this Committee, the Comptroller of the United States shares this view.

It is quite clear that the employees of Amtrak would be entitled to the virtually identical protections of Appendix C-2 if Amtrak is eliminated in whole or in part. The Comptroller General also agrees with this conclusion. If eliminated in part, Amtrak would be liable to each employee affected by a "transaction", that is, an individual discontinuance of intercity rail passenger service. The Appendix C-2 arrangement would be in effect with the employer, Amtrak, and the employees and Amtrak would remain in existence and continue to be responsible for the application of its provisions as it is today.

In the event the railroad was entirely obliterated as intended by the Administration there would be two possible resolutions of the situation which would be created: First, all of the employees of Amtrak who had been employees of other railroad and who, but for the creation of Amtrak, would have lost their jobs with the elimination of rail passenger service in 1971, would be required to be protected by the railroads who had been their employers under Appendix C-1 since they would have been entitled to the protections of C-1 at the time the railroads were relieved of their responsibilities to provide rail passenger service by the creation of Amtrak by the Congress; and, second, the Congress itself in Section 405 directed that the employees affected by the creation of Amtrak be protected in a fair and equitable manner no less beneficial to their interests than the protections afforded railroad employees by the Interstate Commerce Commission under the Interstate Commerce Act, and since the then Secretary of Labor had designed the protective formula appropriate in the circumstances which formula had been adopted into both Appendix C-1 and Appendix C-2, the Congress is responsible for provision of those levels of protection, certainly on moral and equitable grounds, but also we believe upon firm legal grounds.

The legislature is the appropriate province for the proper allocation of the burdens and benefits of economic life. The Congress performed that role with regard to the employees affected by the creation of Amtrak. Its decisions will stand absent arbitrariness or irrationality. The actions of Congress will satisfy the requirements of the due process clause of the Constitution if Congress chooses a reasonable means to accomplish a legitimate end.

It is our position that for Congress to have by legislation created a situation which seriously affected employees; to have directed a minimum protective arrangement for those employees and to have paid the cost of that protection each year as an Amtrak budget item which it approved and for which it appropriated funds; and, then to have eliminated the jobs of those employees and the protection afforded them constitutes a failure to apply the full faith and credit of the United States to its acts and an arbitrary and unreasonable act depriving the affected employees of the due process of law required by the Constitution.

We disagree with the view expressed in the Comptroller's letter to Chairman Danforth that the United States is not responsible for the payments under Appendix C-2 since the Secretary of Labor who "certified" the protective arrangement "was not a party to the Basic Agreement or anything contained therein." The Congress set the minimum and instructed the Secretary to draft the protection if necessary and he did so. The Congress directed the railroads and Amtrak to place the protective arrangement, as drafted and approved by the Secretary, into their contract and, of course, they did so. In short, the Secretary, at the direction of Congress, wrote certain provisions of the Amtrak/Railroads' agreement and the railroads and Amtrak, again at the direction of Congress, "agreed" to them. The Congress and the Secretary as agents of the United States are parties, at least to those provisions of the agreement (C-1 and C-2) which they wrote and placed in the agreement and to which they commanded the parties' consent.

Furthermore, the Comptroller of the United States some seven years ago held that Amtrak was an agency of the United States because it is a "government-controlled corporation as that term is used in 5 U.S.C. § 552(e), the Freedom of Information, Privacy and Sunshine Acts, [57 Opinions of the Comptroller General 773.] Section 552(e) simply provides as follows: ". . . [T]he term 'agency' as defined in section 551(1) of this title, includes any . . . Government controlled corporation. . . .

Section 551(1) provides: " 'agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency. . . ."

The provisions of the Rail Passenger Service Act confirm the earlier conclusion of the Comptroller for despite the disclaimer set forth in Section 301 of that Act that Amtrak is a "for profit corporation" and "will not be an agency or establishment of the U.S. Government", Sections 302 and 303 provide otherwise. Section 302 has the President of the United States appoint the incorporators of Amtrak with the advice and consent of the Senate. The articles of incorporation of Amtrak had to be approved by the President before they became effective.

Section 303 (45 U.S.C. § 543) provides that the Board of Directors—which, of course, controls Amtrak—is controlled by the U.S. Government: Nine (originally 17) members make up the Board with the Secretary of Transportation being an ex officio member. Of the remaining eight, Amtrak's President is a member, three members are appointed by the President of the United States with the advice and consent of the Senate for terms of four years. Two members are elected annually by the prefered stock owners (Department of Transportation) and two members elected by

commuter authorities. On its face, therefore, Amtrak is controlled absolutely by the appointees of the President as confirmed by the Senate.

Section 303(b) (45 U.S.C. § 543(b)) provides that the bylaws of Amtrak must be consistent with the provisions of the Act. Consequently, Congress reserves to itself the authority to amend the bylaws of Amtrak simply by amending the Rail Passenger Service Act.

Section 303(d) (45 U.S.C. § 543(d)) sets the salary levels of the officers of Amtrak and their qualifications for office.

Clearly, Amtrak must do precisely what Congress wishes it to do as Congress wishes it. And, uniquely in the case of Amtrak, this is not accomplished by the offer or withholding of appropriations as in the case of other entities, but the direct Congressional modification of the bylaws of that corporation by the Congress.

The Comptroller places some reliance on the fact that Amtrak is incorporated under the District of Columbia Business Corporation Act but that statute too was carefully circumscribed by the Congress in Section 301 (45 U.S.C. § 541): "It [Amtrak] shall be subject to the provisions of this Act and, *to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter or amend this Act at any time is expressly reserved.*" (Emphasis supplied.)

Congress could change Amtrak's status under the laws of the District of Columbia in an instant. That relationship is solely within the continuing discretion of the Congress. Such retention of immediate direct control over Amtrak is indeed unique in a "for profit, non-agency" corporation.[1]

Congress has from time to time exercised its direct control over Amtrak by varying its route structure and by effectively requiring the operation of unprofitable trains without regard for the wishes of the Board or the claimed "for profit" status of Amtrak.

Amtrak is Congress' railroad and the United States is legally responsible for its employee obligations.

Amtrak has estimated that its liability over six years for total elimination of service would be in the range of $2.1 billion under Appendix C-2. For the year 1986 Amtrak estimates that its liability under C-2 would be substantially greater than the 1986 Amtrak total budget request. The C-2 liability would be $577 million and the C-1 liability would be $68 million or a total of $645 million. It is estimated by Amtrak that the six-year liability would break down as $1.9 billion under C-2 and $.2 billion under C-1. In addition, it is estimated that the individual railroads with whom Amtrak contracts for passenger service would have a C-1 liability in the area of $72 million in the first year and $200 million over six years. The total railroad and Amtrak liability, therefore, would range about $2.3 billion over six years.

Unlike budget cuts in other areas, the elimination of Amtrak from the Federal budget eliminates forever intercity rail passenger service in the United States. It eliminates a Federal program that has succeeded beyond the fondest expectations of its supporters. It is a program which has provided the significant alternative means of transportation to 20 million American citizens and the fifth largest carrier of passengers in this country. It is a program that has received the political support of all states and financial support in excess of $100 million from a number of states; it has invested in turn many tens of millions of dollars in some 46 states and the District of Columbia; and, continually cuts its dependence upon federal subsidy as it improves the quality and quantity of its service.

But perhaps most significant of all aspects of the destruction of Amtrak is that it is a program in which the American taxpayer has invested almost $8 billion since 1971 and which is only now showing a return on that investment in terms of the scope, frequency and quality of the service which it renders. Now the Administration wishes to junk that $8 billion and all of the progress that has been made and deprive this nation forevermore of the possibility of intercity rail passenger service. Such an incredible proposal must be rejected summarily and in its entirety.

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[1] Two Courts of Appeals cases have held that Amtrak is not an agency of the federal government: *Anderson* v. *NRPC*, 754 F.2d 202, 204-205 (7th Cir. 1985) and *Ehm* v. *NRPC*, 732 F.2d 1250, 1254-1255 (5th Cir. 1984). Neither case is controlling or even authoritative in the present circumstances. The *Anderson* case states that no allegation or argument was made that was "any nexus between the federal government's involvement with Amtrak and Amtrak's decision to terminate plaintiff [an employee]". Such a "nexus" of course does exist in the present situation. In *Ehm* Amtrak was compared to Conrail and the Corporation for Public Broadcasting in which Board control standing alone was insufficient to make those corporations agencies of Government. But here Congress directly controls Amtrak's charter, its bylaws and its route operations as well as its Board which vital issues were not raised in *Anderson* or *Ehm*.

Thank you for you attention to my remarks today.

Senator PACKWOOD. Next, if we might, we will hear from Mr. Ross Capon, executive director of the National Association of Railroad Passengers.

Good morning, Mr. Capon.

STATEMENT OF ROSS CAPON, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF RAILROAD PASSENGERS, ACCOMPANIED BY BARRY WILLIAMS, ASSISTANT DIRECTOR

Mr. CAPON. Good morning, Mr. Chairman.

Senator PACKWOOD. Thank you for waiting so long and being so patient with us.

Mr. CAPON. Thank you for the opportunity to speak. Is this on?

Senator PACKWOOD. You have to pull it up quite close, but it is on. The volume is not all that loud.

Mr. CAPON. I would ask that my full statement be included in the record.

Senator PACKWOOD. It will be included in the record as submitted.

Mr. CAPON. With me is Barry Williams, who is the assistant director of our association.

I agree with Mr. Stockman that we are now making decisions not just for this year and next, but decisions that are essentially long-term and irrevocable. Section III of my statement explains why the private railroads would not run their own passenger trains now and why it would be very unlikely to happen in the future.

We regard Amtrak as a successful and a necessary program. It is successful right now because travel is increasing. Amtrak is now into its third consecutive year of increase in passenger-mileage. It is true that in 1979, when we had the energy crisis and when we had a much larger route structure than we do today, that the passenger-miles peaked at 4.90 billion per year. But after declining 15 percent to 1982, when they were at 4.15, they are now in their third straight year of increase. 9

Amtrak is not setting its fares to maximize ridership. Mr. Claytor has repeatedly made that clear. In the most recent 3-year period, 1982 to 1984, as I believe he has indicated to other committees, the CPI 12.7 percent and Amtrak fares averaged an increase of 31.9 percent.

Amtrak is necessary because we need the infrastructure, the passenger-carrying capacity, if you will, of Amtrak both now and in the future. There are only four airlines plus Greyhound which carry more trips per year than Amtrak. The shutdown of Amtrak would be more disruptive than the shutdown of any one of those companies, because when you shut down Amtrak you lose the railroad's passenger-carrying capacity. All of those 20 million or so trips per year would be forced to divert either to the highways or to the airports.

The airports are getting hopelessly clogged. I have a brief quotation in my statement, from the Wall Street Journal of April 5. The complete first sentence attributed to J. Donald Reilly, executive director of Airport Operators Council International, should read:

The summer of 1985 will be significantly more chaotic for the airlines than the horrendous 1984 experience, and in the longer run our national airport system does not stand a chance of providing the aviation system with the ground facilities needed to service projected growth in the next decade.

With respect to the bus companies, bus service is simply disappearing. It is possible that Amtrak's existence has affected the rate at which buses have disappeared, but the basic trend of scheduled route intercity bus service vanishing has been proceeding completely independently of Amtrak. The future of the intercity bus, according to bus industry leaders, is in the tours and charter business, which has been increasing roughly in proportion to the decline of scheduled route intercity service.

I noted in my statement what happened in 1971 when Amtrak was created and you had the biggest single drop in rail passenger service in the history of the Nation. In 1971, rail passenger-miles dropped by 28.7 percent, but there was no bonanza for the intercity bus because they also dropped, by 0.5 percent, in that same year.

I think it is important to note that the communities that would be disadvantaged by an Amtrak shutdown are not simply those communities with no alternate service over which Amtrak and the bus companies have been debating. I have calculated, by the way, that there are 49 Amtrack-served communities which have no intercity bus service, and which would have no bus or Amtrak service, if Amtrak is dropped. That does not include suburbs.

The pain goes beyond there, because you have many other communities where there is some alternate service but it is inadequate. I cite two examples in my statement. In Williston, ND, you have a bus 5 days a week to Bismarck, but the trip from Williston to Twin Cities, which is a major drawing point for that area, on Amtrak is daily and takes 12 hours and there is no change.

The bus runs Monday through Friday, which means that on Sunday, a big day for intercity travel, there is no bus service. The bus takes 18 hours and you have to lay over 90 minutes in Bismarck. So that is one example of a community that would get more bus service, if you take Mr. Knappen up on his promise to run buses to disadvantaged communities. Williston is a community that would be disadvantaged by the loss of Amtrak, even though it does have bus service of a sort today.

I should also say that I cited three bus articles, all of them discussing the withdrawal of bus service, and not one of them mentioning Amtrak: "Bus Concerns Lose Business to Airlines," the Wall Street Journal, September 6; "Greyhound May End Biggest Bus Line If Its Franchise Program Does Not Work," Wall Street Journal, April 19; and "Greyhound Announces Franchise Program," Metropolitan, March-April.

Note also the interview with Wayne Smith, the executive director of United Bus Owners of America, in which he states that he expects scheduled intercity buses to be extinct within 5 years outside of a few areas. In the entire interview, he does not even mention Amtrak.

In the Northeast corridor, I think the point has been adequately made that Amtrak has 30,000 trips a day. Mr. Stockman compared that with the airport capacity in New York City, but what he did not point out is that the New York airports serve the entire Nation

and the world and Amtrak is serving the Northeast corridor. If you look at just the Northeast corridor capacity of the New York airports, you get a much different picture.

And also with respect to the Northeast corridor, it is absolutely clear to me that there is no Conrail sale, at least as far as Norfolk Southern is concerned, if Amtrak goes down the tubes, because a $114 million a year increase in costs for Conrail makes Conrail a much less desirable\property.

As far as the national service goes, there are several advantages that you get from running a national system. One is that the subsidy per passenger-mile on Amtrak goes down if you run a national system. Using the FRA's own figures, the subsidy per passenger-mile was 22 cents for a Northeast corridor system, but it drops to 14 cents per passenger-mile if you add in the national system.

That is based on Mr. Riley's figures that the Northeast corridor operating subsidy is $247 million and, for the nationwide system, you add in $392 million. The passenger-mileage generated in the Northeast corridor is approximately 1.1 billion, and 3.5 billion are outside the Northeast corridor. In other words, 75 percent of Amtrak's passenger-miles is outside the Northeast Corridor.

The national system serves people and communities that would otherwise be isolated. Many people cannot fly because of medical conditions; 25 million, according to a Boeing study, are afraid to fly.

Finally, I think that, in connection with subsidies, we need to look at the past and the future. In connection with the past, I draw to your attention the fact that over $2 billion in passenger ticket taxes were collected by the Federal Government in the 20-year period that ended in 1962, a 20-year period during which not one penny was spent by the Federal Government on the railroads. I might add that during the same period of time over $3 billion was collected from rail freight shippers, during which again nothing happened except that the Government was investing heavily in the alternate modes.

And so when I hear the bus companies talk about considering the impact on bus employees of eliminating Amtrak, I also want to think back to the fifties, when I was an elementary school student. I do not know if anyone was saying, as we were building these highways and airports in large measure without user revenues, whether people were concerned at that point about railroad jobs. But it seems to me that the shoe is sort of on the other foot today and that there is a history of subsidy which is biased against the rail mode and Amtrak is in a sense part of the affirmative action redressing past antirail public spending biasses.

As far as the future goes, we need also to look at the growth in transportation demand which is projected by the National Transportation Policy Study Commission, whose figures I refer to. And the fact is that we do have the capacity on Amtrak to drastically increase the passenger-mileage with very little investment in infrastructure, whereas the cost of accommodating the growth in the other modes, such as by building new airports, would be very great.

You have had a long morning and I think I will stop there and thank you for your indulgence.

Senator PACKWOOD. Do you think, by and large, that the decline in bus service is unrelated to the Amtrak subsidy?

Mr. CAPON. By and large, I would say so. Obviously there are some people who would take the bus who are now on Amtrak. I believe Amtrak surveys show that over time the percentage of their passengers who would take the bus in the absence of Amtrak has been declining. I believe the most recent figure is around 17 percent from the spring 1984 survey.

As to the nature of those surveys, the General Accounting Office study on Amtrak and the buses indicated that the kind of answers you get from those questions do not reflect necessarily the long-run adjustment that people make, and the specific example they give is someone who says he might take the bus in that kind of survey. Over time, he might end up traveling less frequently and taking the plane or not traveling at all.

Senator PACKWOOD. It is a very subjective question, to project what is going to happen.

Mr. CAPON. Absolutely.

Senator PACKWOOD. Senator Exon.

Senator EXON. Mr. Chairman, thank you very much.

I appreciated your testimony very much this morning. I have just two questions. First, with regard to clogged airports, I am the ranking minority member on the Aviation Subcommittee. A major concern that we have right now is the ultimate safety of not only clogged airports, but clogged airways above and around those major airports.

And certainly, given what we know is going to be the further increase in the use of air travel—it is the modern means of transportation, I think we all agree with that—if you place on top of that the closing down of Amtrak, that clogged situation could become an impossible situation in most airports.

Now, I talk about Nebraska a great deal because that is my major interest. But other than Omaha, NE, we do not have any real danger of clogged airports. I am talking about the Nation as a whole. I think we should keep in mind not only that we are talking about the clogged airports from the standpoint of moving people, getting them on airplanes and getting off airplanes and finding places to park their cars and to get from that airport to where they want to go, but also from a safety standpoint.

The real danger is the ever-pressing concern that we have for air safety. I think that that fits into the picture that you were painting.

Let me ask you one question as the representative of the National Association of Railroad Passengers. To cut down the Government subsidy with regard to Amtrak, given the fact that it can do some of the things that Graham Claytor testified to this morning, in your opinion would railroad passengers be willing to pay some additional increase in fares and still maintain their ever-increasing ridership on Amtrak? Or in your opinion would any increase in fares cause less people to use the service and therefore make it that much more difficult to maintain?

Mr. CAPON. Well, I think the fare increases are already a part of the scenario that Amtrak management projected, even without the budget crisis. In other words, Amtrak, as you know, has been

through the wringer before, most recently in 1981, and, as one who has daily contact at many levels of Amtrak, I am impressed by the degree to which that revenue-cost ratio, that bottom line and the concern about it, pervades the entire corporation.

Mr. Claytor for many years now has been saying, "I do not set fares to maximize ridership; I set fares to maximize revenues." So the record shows that during the 3 years, 1982–84, Amtrak raised their fares an average of 31.9 percent, which was more than twice the CPI increase, and the travel on Amtrak continued to increase. Now, I expect that that type of pattern could continue.

But if you are talking about a major jog up as a result of the budget crisis—if you say that you can get more out of the passengers, what you are saying is that Amtrak has not been accomplishing its stated objective, which is to maximize revenues on the trains.

Now, Claytor will admit that it is not an exact science and they are constantly experimenting and dropping experiments that do not work. I might note the Boston-New York Metroliner which Mr. Stockman referred to was an experiment that was dropped over a year ago.

But as far as taking that elasticity and stretching it beyond what Mr. Claytor would describe as maximizing revenues and just getting people to pay through the nose as if there were no competitive environment, I can tell you that there is a small percentage of my members who would stay with the train, but the total membership of our association is about 11,000 or 12,000 and that is a drop in the bucket of Amtrak's ridership.

So I think the reality is that Amtrak is in a competitive marketplace. That is why they develop an ad which says you can ride Amtrak for almost nothing. Ads are designed to attract people to what you are trying to advertise.

I believe I heard Mr. Riley say that you could get a little bit, but not very much, from fares. Basically, I do not think fares offer an opportunity to close this gap beyond what Claytor has already said he has been exploiting for the past several years. The fares have gone up more than twice the rate of the CPI, and until this crisis came along, of course, as you might expect, our members were yelling at me to yell at Amtrak about how the fares were too high.

I would like to put one point in with respect to future growth. The Policy Study Commission projections to which I referred show air person trips growing 69 to 328 percent through the end of the century, but that was assuming a growth in rail passenger traffic as well of 32 to 106 percent. So one assumes that if Amtrak drops out their projections for air traffic growth go even higher.

Senator EXON. Well, Mr. Capon, let me say that I think we are thinking along the same lines. I am not saying that you are going to close all of this gap by a massive fare increase, and I do not think anyone is suggesting that. But I think, as representatives of the National Association of Railroad Passengers, that you should advise them that if we are going to maintain the system, which many of us have fought for for a long, long time, including your organization, it is not going to be necessarily cheap to ride on railroads in the future as compared with airlines, especially on long distance travel.

So if we are going to maintain a rail system, it has to be based on some reasonable subsidy, but less than what we have given in the past. I certainly think that the suggestion made by Mr. Claytor here in the hearing today of a 10-percent reduction in the amount requested, or something like that, seems to be reasonable and a step in the right direction. I hope eventually we can compromise on something like that.

Thank you very much for your testimony.

Mr. CAPON. Thank you.

May I make just one quick comment?

Senator PACKWOOD. Yes.

Mr. CAPON. I would just underline what I believe Mr. Claytor said about the 10 percent, and that is that it is something that he could live with for 1 year, but it is not a long-term proposition because of the types of things that would be deferred during that 1 year.

Senator EXON. Well, let me make one more comment, then, Mr. Chairman. That was what I was referring to when Mr. Claytor was testifying this morning, that he was putting off some maintenance, he was putting off some things. If anyone believes that we are going to continue to increase subsidies for Amtrak, regardless of how much I am for it, then he is wrong.

Therefore, I am saying that we should look for reducing costs and we should look for additional revenues, and not for the Congress to come back next year or the year after that and make up the shortages from a prior year. So I am glad you made that point. I wanted to make mine.

Mr. CAPON. Thank you.

Senator PACKWOOD. Thank you.

[The statement follows:]

STATEMENT OF ROSS CAPON, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

Mr. Chairman and Members of the Subcommittee, thank you for this opportunity to present the views of our Association, which is non-profit, consumer-oriented, and supported entirely by membership dues and contributions. We receive no financial support from the government, Amtrak, the railroads, or rail labor unions.

I. What the $684 Million (Freeze Level) Federal Grant to Amtrak Would Buy:

The administration's oft-quoted $35/passenger subsidy figure is based on the false assumption that Amtrak's appropriation produces only the 20 million trips/year on Amtrak's trains, ignoring:

A. A rapidly-growing mail and express business which more than covers its marginal costs while diverting shipments from highway vehicles that don't pay their fair share of highway repair costs. Fiscal year 1984 mail/express revenues were $18.2 million and are expected to jump to $24-5 million this year. In some areas, particularly along the Chicago-Seattle/Portland "Empire Builder" route, shippers have no alternative that offers Amtrak's speed, frequency, and reliability. The Postal Service uses Amtrak because it is service- and price-competitive.

B. Economies of scale (lower unit costs, greater efficiency, better cash flow) for the 19 private freight railroads and several public transportation authorities with which Amtrak shares facilities all across the nation. In the Northeast Corridor (NEC), an Amtrak shutdown would be devastating, forcing freight and commuter carriers to spend a total of $212 million/year more just to maintain their own services. Furthermore, a temporary cessation of those services (New Jersey Transit, SEPTA, and Maryland commuter trains average a total of 139,900 trips/weekday; Conrail serves some 160 industries on the NY-Washington line, including GM, Ford, and Chrysler auto plants) while carriers struggle to come up with the added funding and/or to reach an agreement with those handling Amtrak's estate is a real possibility. There is also the possibility that some of these services would be shut down permanently,

shunting still more costs onto whichever services are continued. Amtrak is also particularly important to the smaller of those 19 freight railroads with which it contracts, and to Chicago's RTA—whose commuter train costs would rise an estimated $4.5 million/year if Amtrak vacated Chicago Union Station.

C. The close connection between saving Amtrak, which owns the NY-Washington line, and selling Conrail, which operates freight trains on that line. Amtrak estimates an Amtrak shutdown would force Conrail to pay $82 million/year more. This sum, at over 28 percent of Conrail's "real" 1984 profits, would certainly jeopardize any deal to sell Conrail, notwithstanding Federal Railroad Administrator John Riley's March 19 Senate Appropriations Subcommittee testimony that "we do not intend to lower the [Conrail sale] price." The President's budget assumes $1.2 billion in revenues from the sale of Conrail.

D. Maryland/West Virginia commuter train service: Even though only one of Maryland's 3 commuter lines is on Amtrak tracks, it is questionable whether Maryland would be willing to become the sole occupant of Amtrak-owned Washington Terminal, thus Amtrak's demise could spell the end of all Maryland commuter railroad service.

E. New Haven-Boston line freight service: Similarly, Amtrak President W. Graham Claytor Jr. has stated that, if Amtrak shut down, "it is probable that the freight operators—Conrail, Boston & Maine and Providence & Worcester—would terminate freight service rather than continue to use that segment of the Corridor. This would, of course, adversely affect New England industries served by these freight railroads."

F. Reduced pressure on the overcrowded air and highway facilities most Amtrak passengers would be using if Amtrak shut down. In the NEC alone, Amtrak is handling over 31,000 trips/day, up from 29,480 last year, an estimated 26 percent of which would—in event of an Amtrak shutdown—divert to airports where congestion is bad and getting worse.

G. Added capacity to enable the United States to meet growth forecasts for intercity passenger movement with minimal new infrastructure investment. "In the longer run, says J. Donald Reilly, executive director of the Airport Operators Council International, our national airport system doesn't stand a chance of providing the aviation system with the ground facilities needed to service projected growth in the next decade." The National Transportation Policy Study Commission (NTPSC) predicted that—from 1975 to 2000—intercity rail person-trips would grow from 32 percent ("low-growth scenario") to 106 percent ("high-growth scenario") while air person-trips would grow from 69 percent to 328 percent. Airport congestion argues for finding ways to expand rail capacity—not eliminate it!

H. A $71.2 million cross-subsidy to freight and commuter agencies using the Amtrak-owned NEC: FRA's Riley has testified that, assuming Amtrak continues to operate, a more "equitable split" of costs among NEC users would yield increased user payments to Amtrak of $37.8 million/year from commuter authorities and $33.4 million/year from freight railroads. In mandating the current setup, the Interstate Commerce Commission not only defined Amtrak as the NEC's "dominant user" and therefore able to collect only "avoidable costs" from commuter and freight carriers using the NEC, the ICC also defined what costs are "avoidable" in ways adverse to Amtrak.

I. Revenues for mass transit systems from Amtrak passengers who connect with those systems: The increased commuter railroad costs estimated by Amtrak in event of an Amtrak shutdown are conservative because they do not reflect loss of connecting revenues to all forms of mass transit, including subway and local bus as well as commuter railroad services, which would follow Amtrak's demise. (Some ex-Amtrak passengers would continue to use mass transit, but airports are less "transit-accessible" than are most Amtrak stations, some train passengers would simply stay home, and an estimated 45 percent would make their entire trips by automobile.)

J. Amtrak's superior ability to function in snow, rain, and fog, when Amtrak is often the only transportation working.

In short, Amtrak is an integral part of our nation's intricately linked transportation system, and the superficiality of the "$35/passenger" argument can be ignored only at great peril.

II. The Senate Budget Committee's $474 Million Proposal Buys Nothing:

During the Budget Committee's debate, it was argued that $474 million would preserve nationwide service because Amtrak survived a big cut in 1981 (for fiscal year '82) and nothing much happened except that Amtrak "did become more efficient."

Although this argument sounds attractive, it ignores two critical facts: in the 1981 debate, Amtrak wound up with a 13.8 percent cut below its originally stated needs

vs. the 30 percent cut now proposed by the Senate Budget Committee; yet Amtrak no longer faces the relatively easy cost-cutting targets it had 4 years ago. The truly "political" and mostly empty trains are all gone. The last steam-heated cars have been retired. Amtrak is already exempt from all state and local taxes (except at Beech Grove, IN). The capital budget has already been shrunk below need. Northeast Corridor and other work rule changes involving Amtrak employees have already been implemented. Amtrak contract employees are already earning 12 percent less than their freight counterparts.

The cost-cutting opportunities that remain will take a bit more time, and the present debate is slowing things up. A long-held goal is for Amtrak to get operating railroad crews at many points outside the NEC onto the Amtrak payroll. As Amtrak's Claytor testified Mar. 19, "We were planning to . . . take over Train and Engine employees operating [Amtrak trains] on Conrail but outside the Corridor . . . this year. We have put that aside, because I don't think we can persuade people to come to work for Amtrak at a time when Amtrak is under the gun."

FRA's Riley testified Mar. 19 that, "If Amtrak attempted to meet the Senate Budget Committee's levels by cutting back routes, there is no question that that would lead to the insolvency of the company." The Office of Management and Budget, in its background paper for the "leadership package," agrees: "A half-hearted, partial subsidy reduction would result in system shutdown. Most of the subsidy would go to labor protection. Even Northeast Corridor couldn't last a full year."

Evidently, Riley and OMB agreed with Claytor's analysis that dramatic service reductions would create first-year labor protection obligations almost equal to the operating savings. Specifically, Claytor has testified that massive service reductions would replace $101 million of operating grants with $81 million of labor protection obligations in the first year. (Labor protection continues at reduced levels for five more years.) Labor protection costs for killing everything outside the NEC would be $330 million the first year and $1.1 billion over 6 years.

III. A Zero Budget Would Be Irresponsible:

As my list of benefits of the $684 million alternative tries to make clear, we believe the benefits provided by the Amtrak federal grant are essential to the nation's welfare. We are appalled at repeated suggestions by administration officials that the nation can "have its cake and eat it, too," that is, end the Amtrak subsidy and continue to enjoy some level of intercity rail passenger service. This completely unsupportable claim was made most recently by Budget Director David Stockman when he appeared on "Meet the Press" April 14th. He said, "I think some parts of [Amtrak] would be economically viable and would be reconstituted by private enterprise."

Similarly, President Reagan's own comments suggested he believes "defunding" Amtrak would make it more efficient, not kill it. He has referred to Amtrak as performing a function more appropriately undertaken by the private sector. In his State of the Union address, he said: "Deregulation of the airline industry has led to cheaper air fares but, on Amtrak, taxpayers pay about $35 every time an Amtrak train leaves the station."

But the bankruptcy of Amtrak would be quite different from the bankruptcy of an individual airline that uses publicly-owned facilities. In the Northeast Corridor, Amtrak doesn't simply use the infrastructure. Amtrak is the infrastructure. Amtrak owns most of the tracks and rights-of-way, the traffic control system, and the stations, and Amtrak's employees man these facilities. No prudent investor would consider taking on such a huge cost structure.

Outside the NEC, the facts are generally different but the practical effect is not. Amtrak owns track segments in Michigan and Chicago and near Albany, NY. Elsewhere, Amtrak trains use tracks owned by the freight railroads and in all cases outside the NEC (except on Auto Train) the conductors, trainmen, and engine crews are freight railroad employees.

It's unlikely that a private investor would either want or be allowed to undertake regularly scheduled passenger service on the tracks of the freight railroads. To operate a single line would mean high overhead costs and depressed revenue prospects due to lack of traffic connecting to/from other lines. Setting up a network of connecting lines would involve excessively large capital investment and risks as well as complicated negotiations with more than one freight railroad.

For their part, the freight railroads know what happened to Auto-Train Corporation, the one significant example of a private investor offering common carrier passenger service over a private railroad's tracks. The bankrupt company ceased operations in 1981. When it entered bankruptcy in 1980, it was at least $20 million in debt, with the RF&P and Seaboard Railroads major creditors. The trustee tried unsuccessfully to find private investors to take over the company's operations.

No legal mandate would compel the freight railroads to do business with would-be-private rail passenger operators and certainly not on the terms allowed Amtrak. The statute creating Amtrak gave Amtrak certain rights with respect to the use of other railroads' facilities on favorable terms as a quid pro quo for relieving those railroads of their legal responsibility to run passenger trains for their own accounts. Amtrak has the right to run on those railroads' tracks on an "avoidable-cost-plus" basis. In addition, under the operating agreement, Amtrak's contracting railroads are required to maintain their rail lines at the level of utility existing on May 1, 1971 (except Conrail and Southern to the levels existing when they first signed Amtrak agreements, in 1976 and 1979, respectively). If Amtrak dies, Amtrak's unique and significant rights to the use of the freight railroads die as well, never to be recovered.

A private investor wanting to run passenger trains would have neither the level of utility right nor the right to pay only avoidable costs, but would have to negotiate a commercial rate agreement as did the now-defunct Auto-Train Corporation.

Administration officials have also suggested that state and local governments might take over some Amtrak service, at least on the New York-Washington line. But that line is precisely where states would be hit hardest by proposed federal transit funding cuts. Additionally, Amtrak estimates that its demise would force NEC commuter rail and freight operators to sustain new costs totaling $212 million/year.

The clearest statement of what a zero budget means in terms of service came in Riley's Mar. 19 testimony: "There is no route that makes money and can operate in the absence of a subsidy."

A complete shutdown would impose labor protection obligations upon Amtrak and—depending on you (ultimately, the Supreme Court's) view of the law and/or how Congress would react politically—possible on the federal government after an Amtrak demise. These obligations are estimated to total $645 million in the first year and $2.1 billion over six years.

Furthermore, such a shutdown would impose labor protection obligations upon the freight railroads totaling $72 million the first year and $200 million over six years.

[The most disconcerting aspect of the current Amtrak debate is the amount of misinformation, being circulated by Amtrak's opponents. The following sections respond to some of this misinformation.]

IV. The "No-Serious-Impact" Fallacy:

"Nationally, less than one-fourth of one percent of intercity travel is accounted for by Amtrak—with the rest in planes, buses, and autos. The transportation system impact of an Amtrak shutdown would be de minimus."—OMB

"Less than one-fourth of one percent" is quite a come-down from the "2 percent of nationwide intercity travel" cited by Secretary Dole in her Feb. 21 opening statement to the Senate Appropriations Subcommittee on Transportation.

Evidently OMB has adopted an illogical, but not unprecedented, definition of intercity travel in order to portray Amtrak in the worst light possible: a one-way trip of 30 miles or more. Thus OMB counts many daily commuter trips (including some by non-Amtrak commuter railroad service) in the 99.75 percent plus of intercity travel not carried by Amtrak, even though Amtrak was never intended to carry commuter traffic.

Since even 2 percent sounds small, however, a further response is needed. Measured in terms of its 20 million annual passenger trips, Amtrak ranks as the nation's 6th largest intercity common carrier. Its demise would be far more disruptive than would the shutdown of an individual airline or bus company. With Amtrak, an entire mode of transportation would die. Each of those 20 million trips would either be diverted to our already-overcrowded airways or highways—an Amtrak survey indicates 45 percent would shift to the automobile—or be cancelled, depriving the economy of those travel dollars.

The 2 percent figure is based on averaging all intercity markets, many of which have no Amtrak service. Where Amtrak does have service, its market share is an estimated 4.9 percent overall. FRA's Riley says it's 10-12 percent in the NEC, and Amtrak estimates it is 17 percent NY-Albany; 16 percent NY-Washington; 14½ percent Washington-Philadelphia; 7.7 percent Chicago-Detroit; and 2.7 percent Los Angeles-San Diego. The figures may be even more impressive in the many rural markets where Amtrak is either the only or the only effective alteraative to the automobile.

While the impact of an Amtrak shutdown would be most dramatic in the NEC, it is not generally appreciated how important Amtrak is outside the Northeast. Amtrak hauled 75.5 percent of its passenger-miles and earned 68.3 percent of its

passenger revenues outside the NEC in fiscal year 1984. Amtrak is vital to communities where travel alternatives are limited and to people who are either afraid to fly (25 million, according to a 1978 Boeing study) or are permanently or temporarily unable to fly for medical reasons. ["Dr. Lloyd Huneryager, D.O., of Collinsville [OK] has stated that he advises his patients with ear infections not to fly under any circumstances. Also, flying—for people with sinus troubles—may force the infection up the eustachian tubes, causing severe medical problems."—Collinsville, OK, News, Jan. 23, 1985]

V. The "Rockville" Fallacy:

During the Senate Budget Committee's consideration of Amtrak Mar. 6, Amtrak's claim that it provided the only public transportation to certain communities was challenged. Some argued that transit-served suburbs such as Rockville and Gaithersburg were really the only places to which Amtrak could point.

Although Amtrak initially overstated its case by listing suburbs like Rockville, apparently because they weren't shown in Russell's Official [intercity] Bus Guide; Amtrak's case is substantially even when suburban locations are eliminated: 27 Amtrak points have neither air nor bus alternatives; 23 more, have no bus service; 94 more, have no air service. [No air service means no airport within 50 miles for points west of the Mississippi; none within 30 miles for points east.]

Furthermore, Amtrak understated its case by failing to point out many examples of places which have some—but inadequate—alternative service. Williston, ND, has only one bus departure—to Bismarck, Monday through Friday only, even though Sunday is a major day for intercity travel. The Williston-Twin Cities trip takes only 12 hours on Amtrak's daily direct run; the bus journey takes over 18 hours—on days when the buses run—and requires a 90-minute layover in Bismarck. The Ottumwa, IA-Chicago trip takes about 5 hours on Amtrak's direct run; but it takes bus travelers about 9 hours and an en-route transfer.

In general, air service at the smaller points served by Amtrak is priced beyond the reach of Amtrak's long-distance passengers and/or requires passengers to most destinations to change at huge airports where some people are afraid to go.

IV. The "Primarily Middle- and Upper-Class" Fallacy:

"Today, most users of Amtrak have relatively high incomes: over $30,000."—Anne Higgins, President Reagan's Director of Correspondence, in an April 9 letter to a NARP member.

This is simply not true. Passengers with incomes under $20,000 constitute a higher percent of rail passengers (34 percent) than of airline passengers (14 percent) or auto drivers (28 percent). 47 percent of Amtrak passengers who ride for 12 hours or longer on the same train have incomes under $20,000. Half of all Amtrak passengers have family incomes under $25,000.

Obviously, the fast trains on the NEC—and particularly the Metroliners—have passengers generally more affluent than those elsewhere in the system. In condemning Amtrak for having attracted business travelers aboard its trains in large numbers, the administration is confirming the worst caricature of government: we are nearing completion of a $2 billion project specifically designed to make trains attractive for business travelers; before the project is even completed, but after its success has become apparent, the administration is condemning Amtrak for that success!

The Metroliners benefit all of the region's residents, not simply those who pay the high fares. These trains reduce the extent of noise, air, and water pollution that the air and highway modes would otherwise be producing. The trains also reduce pressure for expansion of the air and highway facilities. Indeed, the trains produce national benefits by increasing the region's energy efficiency and reducing pressure for infrastructure investments in the other modes.

VII. The "Amtrak-Could-Just-Raise-Its-Fares" Fallacy:

For years, Amtrak has been raising its fares, in line with its longstanding policy of seeking to maximize revenues, not ridership. This policy sometimes produces special discounts. On average, however, it produces fares that have risen much faster than the consumer price index. During the 3-year period 1982 through 1984, for example, the CPI rose 12.7 percent while Amtrak fares rose 31.9 percent and Amtrak's yield (revenues per passenger-mile) rose 27.3 percent. A "symbolic" fare increase would be a senseless response to the present debate if Amtrak's analysis does not show such an increase would improve the revenues-to-costs ratio, and we urge legislators not to press for such a non-economic decision.

VIII. The "Buses-Would-Do-It" Fallacy:

Scheduled-route intercity bus service is vanishing rapidly. Wayne Smith, Executive Director of United Bus Owners of America, expects such service to disappear "5 years from now outside of a few areas in the United States," with the bus industry

concentrating on the tours and charter business, which has grown roughly in proportion to the decline of scheduled-route ridership (Metropolitan magazine, March/April, "Dialogue with Wayne Smith).

His contention is supported by 3 other recent articles: "Bus Concerns Lose Business To Airlines" and "Greyhound May End Biggest Line If Its Franchise Program Doesn't Work" (Wall Street Journal, Sept. 6, 1984 and Apr. 19, 1985, respectively); "Greyhound Announces Franchise Program" (Metropolitan, March/April, 1985). The latter article states: "According to Greyhound officials, the action occurred partly in response to low-cost airlines that were taking a substantial chunk out of the intercity bus business."

The Wayne Smith interview included this quotation: "When Greyhound was involved in the strike they released a market survey which showed they were getting their pants beat off by these low-cost airlines."

Not one of the above articles mentioned Amtrak. The facts simply do not support either the contention that Amtrak has been a major factor in the decline of the scheduled-route intercity bus, or recent claims that killing Amtrak would produce new bus service. It is ridiculous to suppose that private bus companies, hurrying to unload routes they have seen fit to maintain into 1985, would, upon Amtrak's demise, go back and restart long-since abandoned bus services.

In 1971, when half the nation's intercity passenger trains were dropped, and intercity rail passenger-miles fell 28.7 percent, there was no bonanza for the intercity bus: it also carried fewer passenger-miles, posting a decline of 0.5 percent from 1970. All of the substitute bus services provided for rail passenger operations discontinued by British Rail in the 1960s were dropped for lack of patronage within a few years. Perhaps the best explanation of the small degree to which rail and bus markets overlap lies in comparing bus services with 3rd class rail services provided in developing nations. There, discontinuance of 1st and 2nd class rail services would find the bulk of current 1st class riders switching to the automobile or airplane.

It is also significant that the NTPSC projected much smaller growth for intercity bus useage than for the other modes, including no passenger-mile growth at all in the "low-growth scenario." NTPSC did see a bus future integrated with rail and air services: Greyhound is implementing the air aspect, and California DOT, in deciding last month to continue a Long Beach bus connection for Amtrak, said the bus was running "at a profit."

IX. The "Nobody-Uses-Small-Stations" Fallacy: "One-fourth of Amtrak stations (134) board less than five passengers/day."—OMB

To support this charge, OMB presented a station list that includes 28 stations which actually board more than 5/day; 17 stations Amtrak doesn't serve; 12 Amtrak serves only by connecting bus; 8 where Amtrak stops primarily to change crews; 5 where Amtrak stops because of a law Amtrak has sought to have changed; and 1 (New Orleans) where OMB counted only the occupants of a single sleeping car.

In FY 1984, the ridership count at the 50 Amtrak communities which lack intercity bus service was over 420,600, for an average of 23 passengers per station per day.

OMB clumsily reminds us to note a major advantage of the train: unlike the plane, trains can make intermediate stops at negligible additional cost, thus providing mobility to smaller communities that otherwise would be isolated.

X. The "Only-Cutting-Routes-Shrinks-Costs" Fallacy:

During the Senate Budget Committee debate, it was claimed that Amtrak's route-miles served has plummeted from 41,000 miles at startup to 23,000 today, and that this is the main reason subsidy needs have fallen. In fact, today's 24,000-mile system is actually 4 percent larger than the 23,000 mile Amtrak operated in its first year (1972) and is only 11 percent smaller than the biggest route-mileage Amtrak ever operated (27,000 miles from 1977 through Sep. 30, 1979, not 41,000 miles).

XI. The "Amtrak-Costs-Have-Gone-Through-The-Roof" Fallacy: "[Amtrak is] now costing 20 times what it did a decade ago."—Senator Armstrong, on McNeil/Lehrer, Feb. 21

Amtrak cost the federal government in 1985 only 1.3 times what it cost in 1975. (1985 appropriations were $684 million. The 1975 total was $501.5 million: $276.5 million in appropriations and about $225 million in loan guarantees later converted to grants. I say "about" because Amtrak received $900 million in loan guarantees over a 4-year period, and I have divided that to arrive at an annual average.) If one takes inflation into account and uses "constant dollars," Amtrak's cost to the taxpayer actually declined during the decade.

XII. The "LaGuardia Airport" Fallacy: "LaGuardia airport boards 30 percent more passengers per day (25,000) than the entire Amtrak Northeast Corridor (17,500)."—OMB

OMB dramatically understated Amtrak's NEC ridership and conveniently ignored the fact that LaGuardia's NEC capacity is far less than its total capacity, since airplanes link LaGuardia with all parts of the nation.

We presume OMB found the number 17,500 in Amtrak material which clearly showed this to be simply "passengers between and among NEC stations of New York, Newark, Philadelphia, Wilmington, Baltimore, and Washington," where Amtrak says it carried "46 percent more passengers between and among" those stations in 1984.

In fact, "the entire Amtrak Northeast Corridor" handled 10,789,541 passengers in fiscal year 1984, for a daily average of 29,480. This year's daily average is running above 31,000.

XIII. The Congressional Budget Office Fallacy:

CBO seems to have a blind spot when it comes to Amtrak. In its February 1985 document, "Reducing the Deficit: Spending and Revenue Options," a $300 million fiscal year 1986 Amtrak budget is proposed whose key elements reflect the most elementary misunderstandings of the Amtrak system:

"Eliminate subsidies on the NEC . . .

"Eliminate subsidies for services to points that receive transport subsidies under the small-community air service grants . . ."

Since the Essential Air Service points are scattered over various Amtrak routes, and you either operate an Amtrak route with all appropriate stops or you don't run the route at all, the second suggestion is nonsense, as I pointed out to a CBO staffer several months ago when she ran the idea past me.

As for NEC subsidies, as noted above, Amtrak already sets its fares to maximize revenues, and Amtrak does not control the compensation paid to it by other NEC users.

XIV. The Past Policies That Got Us Here:

Secretary Dole has placed great emphasis on the growing percentage of her Department's costs which are paid by users. She has said this percentage was 49 percent in fiscal year 1982, will be 70 percent this year, and would be 85 percent under the President's budget. What she does not spell out, however, is the extent to which government-established funding mechanisms for government-owned highway, air, and water facilities benefit those modes, enabling them to achieve impressive revenue-to-cost ratios, and shielding users from the impacts of economic downturns. (There are, of course, considerable cross-subsidies within the highway program, and these disadvantage Amtrak because a major subsidy flow is to the Interstate network from local streets and arterials.)

Government's failure to establish any comparable mechanism for railroads or rail passenger service is perhaps more significant than the actual dollar amounts involved. Government has made it virtually painless for us to make massive expenditures in the "trust-funded" modes, which even bypass the appropriations process. The following extensive quote is instructive. It comes from "Study of Federal Aid to Rail Transportation," January, 1977, by President Ford's Secretary of Transportation, William T. Coleman Jr., a report mandated by Section 902 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Page IV-13, emphases added):

"Aside from the advantages to certain modes from direct Federal subsidies, other beneficial aspects of the Federal role come into play, including the ability to mobilize funds on a massive scale and the conversion of fixed costs into user charges. For instance a critical difference between the rail and pipeline industries' private sector investment in rights-of-way and the public financing of highway, air and water transportation facilities is that such investments represent fixed obligations for rails and pipelines whereas they are transformed by Federal agency involvement into variable costs for highway and airway users and no cost to waterway users. In essence, public financing of highways and air facilities has allowed trucking companies and airlines to finance their right-of-way costs as they are needed and used. During slack business periods their right-of-way user payments fall off; in good periods, their payments rise. Railroads and pipelines are not permitted that luxury, however. Amortization of right-of-way investments for these carriers require fixed annual payments to finance systems that must be built to handle peak traffic loads; these charges have to be met in bad business years as well as in prosperous years. The risk of interest default is thus much higher for rails and pipelines—barges, motor carriers and airlines are spared this debt burden.

"Finally, one of the costs associated with the financing of a mode's right-of-way is the cost of capital. Railroads and pipelines secure their investment funds in the market place and must pay commercial rates. The Federal aid to highway and airport/airway programs are, however, essentially financed on a pay-as-you-go basis and are effectively interest free for users of these systems. Government debt is also

used to finance deficiencies in user tax receipts, but at rates well below those charged commercial borrowers. The sheer size of the post-war highway, airport and waterway development programs has been such that they could not have been undertaken on a similar scale by the states and/or the private sector.

"Thus motor carriers, airlines and water carriers have their business risks reduced when the Federal Government in effect serves as their banker in arranging for the financing of investment in their respective rights-of-way. Highway, airport/airway and waterway projects have been charged with very little, or none, of the opportunity cost of Federal capital, whereas the railroads and pipelines customarily have been required to raise money on commercial terms (allowing for periodic government loan guarantee programs for bankrupt and financially distressed railroads). Moreover, carriers who pay user charges in lieu of fixed charges, or no user charges in the waterway case, enhance their industry's financial security in comparison with the fixed interest and debt retirement costs paid by railroads and pipelines."

Ignoring the impact of the trust-fund mechanisms and looking simply at who paid what, these figures emerge. Through 1975, highway expenditures by all levels of government exceeded user payments by $120.5 billion. (State and local expenditures were $334.2 billion; user payments were $203.4 billion. Federal obligations were $88.8 billion; user payments were $99.1 billion.) Highway Statistics 1983, the most recent edition of this annual Federal Highway Administration publication, indicates that, in 1983, $13.5 billion were collected for highways from non-user taxes and fees, including $2.1 billion at the federal level.

As the above-referenced Coleman report states, "airport and airway development costs incurred prior to the assessment of user charges in 1971 have been treated as sunk costs, none of which have been or will be paid for by air carriers and other system users . . . these sunk costs total $15.8 billion." (page IV-12) One could be slightly more generous to aviation and note that the federal passenger ticket tax, in effect from 1942 through 1970, collected $3.2 billion from air passengers, leaving a net pre-user-charge federal subsidy to aviation of $12.6 billion. State and local aid to aviation is considerable, of course. And even federal appropriations continue to exceed the amounts collected in user charges—by $2.6 billion in FY 1984, $1.6 billion this year, and $.7 billion under the President's FY 1986 budget which assumes controversial changes in the law. Airport construction is aided through availability of tax-free bonds.

Through 1975, federal railroad use-related tax revenues exceeded federal railroad expenditures by $4.3 billion (receipts were $6.1 billion; expenditures $1.8 billion). The major source of receipts was the federal freight waybill tax (1942-58) and the federal passenger ticket tax (1942-62), originally imposed as war taxes but kept on long after the war. $2 billion ($2,025,600,000, to be exact) was collected from railroad passengers. This money (a far more impressive sum if stated in constant 1985 dollars!) simply went into the treasury, even as highway user taxes were introduced and earmarked for building more highways. As the Doyle Report ("National Transportation Policy," Report of the Senate Commerce Committee by its Special Study Group on Transportation Policies in the United States, June 26, 1961) stated:

"While this tax is not alone responsible for the growth of private transportation, it is one of the factors under Federal control which favors the growth of private transportation and makes the preservation of public service more difficult." Although this tax was also collected from air passengers, the federal government was busily spending money on air facilities at almost five times the rate that air ticket tax revenues were being collected.

Occasionally, the land grant issue is advanced to counter some of the above arguments. But over 92 percent of railroad mileage today had nothing to do with land grants. Furthermore, the 1850 land grant law included the obligation to haul government personnel and freight at a 50 percent discount, and mail at a 20 percent discount. For competitive reasons, these discounts were also offered by some non-land grant railroads. They remained in effect until October 1, 1946, by which time the railroads had contributed $1.25 billion worth of discounts to the government.

The government policies recounted above, and to some extent the nature of the railroad business, leave us in a much better position to see the full costs of rail passenger service than of other forms of passenger transportation. In addition, because the rail passenger business went so far downhill before the government "rescued" it, Amtrak has been afflicted with the basic business reality that "low volume yields high unit costs," a problem Amtrak is solving as its travel volumes climb and as it gets improved labor agreements.

XV. An Old Industry—But an Efficient, Necessary One:

It's not hard to understand how one could look at the different modes and see no role for rail. After all, the air and highway systems are newer and far larger; the rail industry is one of the nation's oldest and the Amtrak network is small.

We believe, however, that all the other major nations of the world—both developed and developing—are not wrong in retaining rail passenger service, nor are their actions explained by circumstances uniquely absent in the United States.

For reasons discussed above, we believe the passenger train is vital for our future, and Amtrak's modest current size is more a product of our past "anti-rail" policies than of free market economics. Once those policies were locked in, no significant changes in treatment of the rail mode took place until the railroads' survival was generally perceived to be threatened. Then came deregulation, Conrail, and other help for freight services; Amtrak for passengers.

Amtrak started from such a small base because our tendency towards "government by crisis" insured that things would sink pretty low before the pendulum would start to swing back. We see no danger, however, that the pendulum will swing unproductively towards overemphasizing Amtrak service—although some might argue that this happened during Amtrak's first few years when routes were added without close analysis of their economics or of Amtrak's capacity to run them well.

Today, at Amtrak, the commitment to getting the highest revenues-to-costs ratio possible is remarkably pervasive, thanks to Congressional pressure and to pressure from President Claytor, whose previous rail experience is on one of the nation's most efficient private railroads.

The revenues-to-costs ratio has been rising: 48 percent in fiscal year 1981; 56 percent last year; and a projected 60 percent next year. Projects which can help Amtrak maintain that ratio and improve it further include:

1. Amtrak's new presence in airline computers (TWA's can already issue Amtrak tickets), making Amtrak travel easier and more attractive for travel agents to promote and sell. (As one Amtrak executive observed, this fulfills "Marketing 101," getting your product on the shelf.)

2. The new Ivy City Shops nearing completion in Washington and the recent acquisition of a maintenance facility in Delpro, DE;

3. Modernization currently underway at the 8th Street Yard in Los Angeles and planned for antiquated Sunnyside Yard in New York City;

4. Further labor agreement efficiencies;

5. Improvement in the way employee liability matters are handled, one significant area where we hope the Committee and Amtrak can work together on the necessary legislative changes.

In 1979, many first-time Amtrak riders were grateful Amtrak was there, though not impressed with the service quality then being offered. An Amtrak that remains economically healthy when oil markets are stable can—during an energy crisis—quickly be transformed into a vital lifeline for those not now using it. The U.S. seems to have gone to sleep on the energy crisis. An American Petroleum Institute official says:

"Despite years of counting on conservation as the main key to solving our nation's energy problems, US demand rose by 5 percent in 1984. The increased demand was met primarily by increased oil imports—up some 8 percent compared with 1983.

"We thus ended 1984 with higher consumption and higher imports, but with no increase in domestic production. In fact, during the 1970s, U.S. reserves of crude oil from lands available for exploration declined by nearly one-third." (Christian Science Monitor, Mar. 4)

Similarly, an Apr. 16 New York Times editorial warns: "There is no prospect of another major oil crisis anytime soon. But oil is still a depleting resource and there is no easy substitute for it as a transportation fuel. Inevitably, the world oil market will tighten again."

Increasingly, our members are convinced that one logical solution to the eternal Amtrak funding dilemma could also help improve our energy self-sufficiency: an increase in the gasoline tax, proceeds from which could be used for various purposes including the funding of Amtrak, whose current appropriation level is less than the revenue generated by three-fourths of a penny on the gasoline tax.

XVI. An Administration Switch:

In conclusion, I need to report the tremendous bitterness reflected in many of the letters I receive from NARP members who took seriously the strong and explicit pro-Amtrak commitments provided both by the Reagan campaign last spring, and by Secretary Dole as recently as her September 28 letter to NARP President Martin.

Senator PACKWOOD. Lastly, we will take Mr. Richard B. Griffin, representing the Railway Progress Institute.

STATEMENT OF RICHARD B. GRIFFIN, JR., ON BEHALF OF THE RAILWAY PROGRESS INSTITUTE COMMITTEE ON PASSENGER TRANSPORTATION

Mr. GRIFFIN. Good afternoon, Mr. Chairman and members of the committee:

Thank you for this opportunity to appear. I am Richard Griffin, Jr., director of government affairs for General Railway Signal Co. of Rochester, NY, and for New York Air Brake Co. of Watertown, NY. Today I am representing Mr. Larry Salci, who is the chairman of the Railway Progress Institute Committee on Passenger Transportation, and whose company, like mine, is a major supplier to Amtrak. Unfortunately, Mr. Salci is detained in Taiwan.

Today I am speaking on behalf of more than 50 companies whose employees and stockholders depend upon sales to the Nation's railway passenger transportation system. Indeed, we represent another element of the community of interests that you have heard today.

Our position, and we are furnishing copies of our policy statement to the Congress, is this: We recognize the need to meet the growing Federal budget deficit and we endorse equitable, across the board efforts to reduce the deficit. We do not, indeed we cannot, support withdrawal of Federal assistance to Amtrak.

Eliminating Amtrak would create an unmitigated disaster in the Northeast corridor and levy an unnecessary burden upon the Nation's airports and road systems. It would further isolate the cities and rural areas that depend on Amtrak's service. It would be one giant step backwards, we believe, in our Nation's efforts to create a balanced national transportation system.

Our Committee on Passenger Transportation of the RPI created a well documented call for a balanced public transportation system in October 1982. Describing the benefits of a truly balanced national system, it pointed out some interesting side benefits. One of these was in the field of employment. Using Department of Commerce multipliers, we found that every $1 million spent on rail cars generated an estimated 44.2 man-years of work.

Amtrak spent more than $100 million with RPI member companies in one recent fiscal year. That means 4,420 man-years of work. For example, Mr. Salci's company, Transit America, Inc., has built more than $300 million worth of cars under contracts to Amtrak. This translates to some 13,260 man-years of full-time employment.

A week ago, Mr. Chairman, in the Rochester, NY, Times Union, Monday, April 22, 1985, edition, the president and shop chairman of the AFL-CIO's local 323, IUEW, wrote a letter to the editor pointing out that my company, General Railway Signal of Rochester, NY, employs 1,200 local residents. More than 50 percent of the work that they do is directly dependent upon Amtrak. In a community such as Rochester, that's a lot of jobs.

Senator PACKWOOD. You employ how many, sir?

Mr. GRIFFIN. 1,200, sir, of which 50 percent of their work is directly related to Amtrak.

So you see, Mr. Chairman, when considering Amtrak's future, it is necessary to bear in mind that there is a significant segment of our national economy depending in some part on the continued existence of and continued superb performance of our national intercity rail passenger system.

Mr. Chairman, I would like to briefly say—I know we have all had a long day—and I assume my statement will be in the record. In addition to just the job impact on our industry, it seems that the administration's budget request appears to be an abrupt and arbitrary reversal of national policy.

Why is the administration rewarding success with termination? We believe Amtrak is a success and we should know. It is a world class rail passenger system, a railroad, as we have heard today, that any other industrialized nation would hold up to the world as a triumph of its own industries' capabilities.

The Northeast corridor is one of the most complex rail systems in the world. It intermingles Conrail freight and switching operations with stop and start commuter rail traffic and high-speed trains which run at 120 miles an hour on some stretches of track. As a supplier of signal and control systems, Mr. Chairman, I can tell you that this is the most sophisticated rail signaling system in the world, bar none. Amtrak's new passenger cars are as modern as any you will see in the world.

From few employees and outdated, ill-working equipment, Congress created a first rate organization employing 21,000 persons who run a first-class reliable railroad. The Federal investment has been well used, Mr. Chairman, and we think Congress should be proud of the success that Amtrak represents.

Amtrak is, I should think, everything the U.S. Congress hoped it would become. We have heard today that reason tells us that if Amtrak is terminated it will be terminated for good. Recreating Amtrak at some future date would be almost impossible.

It is, we believe, imprudent to cast aside a $10 billion Federal investment in Amtrak and pay out more in labor protection costs than would be paid to keep Amtrak running. We fear that it is inequitable to reduce the Department of Transportation's budget by singling out Amtrak and transit for 83 percent of the cuts proposed by the administration. We do not believe Amtrak should be disposed of as part of what we feel to be an ill-conceived, short-sighted attempt to balance the budget.

A final point, Mr. Chairman, and not an insignificant one to us, in light of this committee's commitment to both rail and highway safety. Terminating funding for Amtrak will also eliminate 75 percent of the funding for the National Operation Lifesaver Program, a relatively small but useful public education program on the dangers of rail highway grade crossings.

My company and other members of RPI have supplemented this important program to the fullest extent possible. Freight railroads are also significant contributors to this program, particularly at the State level. While this is not a primary consideration, we thought the committee should be aware of this fact.

Finally, Mr. Chairman, in conclusion, the position we have come to place before the committee today is this: We recognize the need to meet the growing Federal budget deficit problem. We fully en-

dorse equitable across the board efforts to reduce the Nation's budget deficit. We urge Congress to reject the administration's transportation proposal and develop a deficit reduction program that is fair, equitable, and across the board. To this end, we support Amtrak's request for a funding freeze at the fiscal year 1985 level.

Thank you, Mr. Chairman, for the opportunity to appear before you today.

Senator PACKWOOD. Mr. Griffin, I have no questions, but I doubly want to thank you because I enjoy having witnesses who are in the hurly-burly of the free enterprise market, and indeed you are. I know how much it means to take your time and come down here and to wait all morning to testify. For one, I want you to know that I appreciate it very much.

Mr. GRIFFIN. We indeed appreciate the opportunity to be here. Thank you very much.

Senator PACKWOOD. Thank you.

[The statement follows:]

STATEMENT OF RICHARD B. GRIFFIN, JR., RAILWAY PROGRESS INSTITUTE COMMITTEE ON PASSENGER TRANSPORTATION

Good day, Mr. Chairman and members of the Committee.

Thank you for this opportunity to appear. I am Richard B. Griffin, Jr., Director of Government Affairs for General Railway Signal Company of Rochester, New York and for New York Air Brake Company of Watertown, New York. Today, I am representing Mr. Larry E. Salci who is the Chairman of the Railway Progress Institute's Committee on Passenger Transportation and whose company, like mine, is a major supplier to Amtrak. Unfortunately, Mr. Salci is detained in Taiwan. I am speaking on behalf of more than 50 companies whose employees and stockholders depend upon sales to the nation's rail passenger transportation systems.

Our position (and we are furnishing copies of our policy statement to the Congress) is this:

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Our Committee on Passenger Transportation of the Railway Progress Institute created a well-documented call for a balanced public transportation system in October of 1982. Describing the benefits of a truly balanced national system, it pointed out some interesting side benefits. One of these was in employment. Using Department of Commerce multipliers, we found that every $1 million spent on railcars generated an estimated 44.2 man-years of work.

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And so you see, Mr. Chairman, when considering Amtrak's future, it is necessary to bear in mind that there is a significant segment of our national economy depending in some part on the continued existence and continued superb performance of our national intercity rail passenger system.

We appreciate this opportunity to point out, Mr. Chairman, that Amtrak is not simply an isolated organization that can be readily plucked out of the economy and society. On the contrary, Amtrak is a vital part of the nation's economy and the nation's transportation system.

Mr. Chairman, the Administration's budget represents an abrupt, arbitrary reversal of national policy. Why is the Administration rewarding success with termination?

Amtrak is indeed a success.

It is a world-class rail passenger system—a railroad that any other industrialized nation would hold up to the world as a triumph of its own industries' capabilities. The Northeast Corridor is one of the most complex rail systems in the world. It intermingles Conrail freight and switching operations with stop and start commuter rail traffic, and high-speed trains which run at 120 miles an hour on some stretches of track. As a supplier of signal and control systems, I can tell you that it has the most sophisticated signaling system in the world, bar none.

Amtrak's new passenger cars are as modern as any you will see anywhere in the world.

From few employees and outdated, ill-working equipment, Congress created a first-rate organization employing 21,000 persons who run a first-class, reliable railroad. The federal investment has been well used. Congress should be proud of the success Amtrak represents.

Amtrak is, I should think, everything the United States Congress hoped it would become.

Reasons tells us that if Amrak is terminated, it will be terminated for good. Recreating Amtrak at some future date would be almost impossible

It is imprudent to cast aside a $10 billion Federal investment in Amtrak and pay out more in labor protection costs than would be paid to keep Amtrak running.

It is inequitable to reduce the Department of Transportation's budget by singling out Amtrak and transit for 83 percent of these cuts.

It should not be disposed of as part of an ill-conceived, short-sighted attempt to balance the budget.

The position we have come to place before this committee, Mr. Chairman, is this:

"We recognize the need to meet the growing federal budget deficit problem.

"We fully endorse, equitable, across-the-board efforts to reduce the nation's budget deficit.

"We urge the Congress to reject the administration's transportation proposals and develop a deficit reduction program that is fair, equitable, and across-the-board. We support Amtrak's request for a funding freeze at the fiscal year 1985 level."

Again, I thank you, on behalf of the Institute's Committee on Passenger Transportation, for the opportunity to present our statement. I will be glad to answer any questions that you might have.

POLICY STATEMENT OF THE RPI COMMITTEE ON PASSENGER TRANSPORTATION

The need to meet the growing Federal budget deficit problem has become increasingly clear. We recognize that fact and fully endorse equitable, across-the-board efforts to reduce the nation's budget deficit.

The Administration's budget requests nearly a $3.8-billion reduction in budget authority from the 1985 level for transportation programs. However, more than 83 percent of that reduction would come from the Urban Mass Transportation Administration's mass transit programs and the elimination of Amtrak's intercity rail passenger service.

The Railway Progress Institute is the association of suppliers to rail systems.

We private-sector suppliers to the rail passenger industry call attention to the following facts:

I. The Administration's transportation budget proposal represents an abrupt, arbitrary reversal of national policy. It would impede economic growth and employment opportunities in urban and rural America.

II. The budget proposal would result in the disruption of the nation's transit infrastructure and it would cause Amtrak to disappear into bankruptcy. This would throw away $10-billion of Federal investments in Amtrak, and between $25- and $30-billion in transit investments made over the past 20 years alone. Twenty percent of the transit systems would be forced to consider shutting down. Requisite maintenance would be deferred or eliminated. Service would deteriorate. The mobility of many of the nation's citizens would be reduced. Prior capital investments would be wasted. Plans for new urban rapid transit systems would be abandoned and expansions of existing systems would be eliminated.

III. The Administration's budget, if approved, would mean massive negative impacts on our industry—if not its total elimination. This puts more than 250,000 tax-paying jobs dependent upon surface passenger transportation at risk, as well as substantial investments in research, development, and manufacturing facilities. A loss of $10-billion in direct private business revenues is likely, and this grows to $25-bil-

lion when multipliers derived from the U.S. Department of Commerce's input-output studies are applied.[1]

The Administration has proposed a deficit reduction plan in which virtually all reductions come from cuts in non-defense domestic spending programs. In the transportation sector, virtually all of the reduction comes at the expense of transit and rail passenger service.

In its search for a quick fix to the deficit problem, the Administration has developed a proposal with disastrous long-term impacts. To achieve a $3-billion short-term saving, more than $10-billion in annual industry revenues will disappear and the mobility of America will be severely curtailed.

We urge the Congress to reject the Administration's transportation proposal and develop a deficit reduction program that is fair, equitable, and across-the-board.

Senator PACKWOOD. And we are adjourned.

[Whereupon, at 1:25 p.m., the subcommittee was adjourned, to reconvene upon the call of the Chair.]

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[1] These multipliers are 2.36 for subway construction, 2.6 for railcar manufacturing, and 2.61 for bus manufacturing.

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF HON. WILLIAM H. HUDNUT, MAYOR, CITY OF INDIANAPOLIS, IN

Mr. Chairman, my name is Bill Hudnut. I am Mayor of the City of Indianapolis, and one of the few big city mayors who are Republican. I appreciate this opportunity to testify before the Committee as it considers the future of funding for Amtrak.

As Congress considers Amtrak funding, I think it is important to consider the issue broadly, to examine the effect of a subsidy reduction on all levels of government and segments of the economy—not just the federal budget. Too often, federal decisions are made without adequate consideration of the impact those decisions will have at the state or local level and upon private industry. Federal deregulation which results in new regulation at the state and local level is not deregulation—it is regulation rearrangement. Similarly ending federal expenditures on items which must continue and thus merely pushing the cost to another level of government is not cost savings—it is cost rearrangement.

The Amtrak subsidy is a good example of a cost which must be considered within the context of the federal system. The Committee has heard ample testimony on the effect of eliminating the subsidy to Amtrak will have on other levels of government. New Jersey would have $47 million in new costs, Pennsylvania $27 million, and so on. In Indiana we would suffer an immediate loss of $650,000 in tax revenue and over $5 million in sales and service revenues. Thus the Committee should balance the savings of no federal Amtrak funding against the costs that will be imposed on governments and businesses. Graham Clayter estimates these "rearranged" costs at about $200 million per year.

These costs, however, are just part of the story. The loss of jobs with the accompanying human tragedy and the effect of that joblessness throughout the local economies is even more tragic. In Indianapolis we enjoy the presence of Amtrak's Beech Grove Repair Facility. If Amtrak goes out of business, over 1300 people will lose jobs and our economy will lose $32 million in annual income. These jobs will be lost at a time when there is already an unacceptably high unemployment rate. Our losses, are again, only part of the story. Nationally over 25,000 people will lose jobs. Jobs which are productive, which meet a need, and which keep alive a key transportation for this country.

The shifting of costs, the loss of jobs, the loss of a transportation resource, and the loss of local resources might be dismissed in the name of federal budget austerity if there was going to be a net savings. In the case of Amtrak, ending service appears to be more closely to the federal government than continuing service. The labor protection provisions of Amtrak legislation will require payments in excess of the federal Amtrak subsidy for at least six years.

On its face, the elimination of Amtrak's subsidy seems to make no sense at all. To spend more money, we will throw 25,000 people out of work, increase local costs, scrap billions of dollars in capital assets, eliminate a transportation resource for 500 communities, and eliminate rail service to hundreds of factories.

It is likely that some portions of the Amtrak capital plant will be bought. Similarly some employees will be hired by other railroads. I suppose there is a chance that the Beech Grove Repair Facility will be purchased. But I have seen no convincing data that would indicate that the savings that might result from the elimination of the Amtrak subsidy come close to justifying the loss of jobs and assets.

I urge the Committee to reject the Administration's proposal and instead continue to reduce Amtrak's reliance on federal subsidies through the process that has worked so well in the past.

Thank you.

STATEMENT OF HON. DANIEL E. GRISET, MAYOR OF SANTA ANA, CA, ON BEHALF OF THE U.S. CONFERENCE OF MAYORS, MAY 1985

Mr. Chairman and members of the Subcommittee, the U.S. Conference of Mayors is pleased to have the opportunity to present our views to you concerning the future of Amtrak and its relationship to the nation's cities.

The Administration's proposed elimination of funding for Amtrak in the 1986 Federal Budget is a cause for considerable concern by Mayors. We believe a national passenger railroad system is critical to achieving our defense, transportation, energy and environmental objectives and to sustaining a strong and healthy economy. The United States has a long history of using rail service to meet major transportation needs. With mobility a necessity and costs for new systems prohibitive, a high priority must be placed on the preservation of existing transportation services with an emphasis on efficiency and reliability.

Passenger Railroad service is an integral means of transportation for much of the nation's population both urban and rural. In my own region of Southern California, Amtrak is an important transportation resource. In its absence, states and localities would be faced with alternative transportation services that could either be too expensive or simply too burdensome on already congested highways. Obviously, stringent environmental standards would be affected by any additional glut of vehicles adding to the already questionable air quality conditions.

Amtrak is a success story as a Federal, State and local government financial partnership. Numerous local agencies have invested substantial amounts of money for the construction, expansion and rehabilitation of train stations and/or transportation centers in an effort to encourage ridership and attract further efforts from Amtrak to better meet travel demands in profitable markets.

The City of Santa Ana is just completing a major, multi-modal regional transportation center that will combine a variety of transportation services into one centralized location. This investment represents $20 million of the more than $100 million dollar local investment in station and track improvements in the Los Angeles to San Diego [LOSSAN] corridor alone. This commitment is representative of similar initiatives throughout the nation.

Moreover, Amtrak has made substantial progress towards reducing Federal subsidies by a demonstrated improvement in revenue performance and has outlined a variety of proposed cost savings for the future which contain merit and deserve consideration by this subcommittee prior to any action directed at reduction or elimination at this time.

No state or local agency is currently in the position to assume these costs, especially in light of other cost-savings being proposed by the President that would directly affect the services provided by local units of government.

The Conference has adopted policy calling for an across the board freeze on all federal spending, other than means tested entitlement programs and a non-personal income tax increase dedicated to deficit reduction. We believe it is measures such as these which hold the most promise for deficit reduction, not eliminations of needed such as Amtrak.

The Conference appreciates the opportunity to comment and looks forward to working with the Subcommittee toward ensuring a balanced national transportation policy.

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